

# Alaska State Legislature

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## Senator Shelley Hughes

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### SB 16 Digital Assets Act

#### Sponsor Statement

Senate Bill 16, the Digital Asset Act (DAA) updates Alaska’s fiduciary law for our digital and internet age. Under current law, fiduciaries in Alaska are curtailed in doing their legally mandated job in the area of digital assets. The DAA allows fiduciaries to fulfill their duties as it relates to digital assets.

In the internet age, the nature of property and our methods of communication have dramatically changed from what was common a generation ago. Regardless of demographics, it is commonplace today for at least some of Alaskans property and communications such as photos, music, personal documents and others personal digital property, to be stored as data on a server or accessed through the internet.

Collectively, a person’s digital property and electronic communications are referred to as “digital assets” and the companies that store those assets on their servers are known as “custodians”. Access to these digital assets are governed by the terms-of-services agreements that a user must agree to when registering and not by property law. This creates a challenge when a user dies or is otherwise incapacitated to the point where they are not able to properly manage these digital assets.

For example, recently a United States Marine was killed in action while serving in Iraq and his father tried to access his deceased son’s yahoo mail account in order to settle any outstanding financial affairs. Yahoo denied access, citing its terms of service agreement. The father filed suit in the state’s probate court and the court ordered Yahoo to release the emails to the father.

The passage of a law such as Senate Bill 16 would allow the fiduciary (the father) to access that information more easily than current statute allows, and without the expense of a court suit. A fiduciary is a trusted person with the legal authority to manage property on behalf of another and to act in that person’s best interest. SB 16 addresses the four types of fiduciaries: Executors or administrator of a deceased persons estates; court-appointed guardians or conservators of protected persons’ estates; agents appointed under powers of attorney; and trustees.

In order to gain access to the digital assets, if the standards in SB 16 are met, the law would then require a fiduciary to send a request to the custodian, accompanied by a certified copy of the document granting fiduciary authority. Custodians of digital assets that receive a valid request for access are immune from any liability for acts done in good faith compliance.

SB 16 is an overlay statute that is designed to work in conjunction with Alaska’s current laws on probate, guardianship, trusts, and powers of attorney and is a vital statutory update for our current digital age.

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