

By: Senator(s) Tollison

To: Judiciary, Division A

SENATE BILL NO. 2460

1 AN ACT TO CREATE THE REVISED UNIFORM FIDUCIARY ACCESS TO
2 DIGITAL ASSETS ACT; TO ENACT A SHORT TITLE; TO CREATE DEFINITIONS;
3 TO PROVIDE FOR APPLICABILITY; TO AUTHORIZE USER DIRECTION FOR
4 DISCLOSURE OF DIGITAL ASSETS; TO PROVIDE THAT THE ACT DOES NOT
5 AFFECT TERMS-OF-SERVICE AGREEMENTS; TO PROVIDE A PROCEDURE FOR
6 DISCLOSING DIGITAL ASSETS; TO PROVIDE FOR DISCLOSURE OF CONTENT OF
7 ELECTRONIC COMMUNICATIONS OF A DECEASED USER; TO PROVIDE FOR
8 DISCLOSURE OF OTHER DIGITAL ASSETS OF A DECEASED USER; TO PROVIDE
9 FOR DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF THE
10 PRINCIPAL; TO PROVIDE FOR DISCLOSURE OF OTHER DIGITAL ASSETS OF
11 THE PRINCIPAL; TO PROVIDE FOR DISCLOSURE OF THE CONTENTS OF
12 ELECTRONIC COMMUNICATIONS HELD IN TRUST WHEN THE TRUSTEE IS NOT
13 THE ORIGINAL USER; TO PROVIDE FOR DISCLOSURE OF OTHER DIGITAL
14 ASSETS HELD IN TRUST WHEN THE TRUSTEE IS NOT THE ORIGINAL USER; TO
15 PROVIDE FOR THE DISCLOSURE OF DIGITAL ASSETS TO THE CONSERVATOR OF
16 A WARD; TO IMPOSE LEGAL DUTIES ON AND GRANT AUTHORITY TO A
17 FIDUCIARY UNDER THE ACT; TO PROVIDE FOR CUSTODIAN IMMUNITY; TO
18 AMEND SECTIONS 87-3-7, 81-5-34, 91-8-303, 87-3-109 AND 99-35-1,
19 MISSISSIPPI CODE OF 1972, TO CONFORM TO THIS ACT; AND FOR RELATED
20 PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1. Short title.** This act may be cited as the
23 Revised Uniform Fiduciary Access to Digital Assets Act.

24 **SECTION 2. Definitions.** In this act:

25 (1) "Account" means an arrangement under a
26 terms-of-service agreement in which a custodian carries,



27 maintains, processes, receives, or stores a digital asset of the
28 user or provides goods or services to the user.

29 (2) "Agent" means an attorney-in-fact granted authority
30 under a durable or nondurable power of attorney.

31 (3) "Carries" means engages in the transmission of an
32 electronic communication.

33 (4) "Catalogue of electronic communications" means
34 information that identifies each person with which a user has had
35 an electronic communication, the time and date of the
36 communication, and the electronic address of the person.

37 (5) "Conservator" means a person appointed by a court
38 to manage the estate of a living individual and includes a
39 guardian appointed by a court to manage the estate of a living
40 individual, and "conservatorship" includes guardianship of the
41 estate of a living individual.

42 (6) "Content of an electronic communication" means
43 information concerning the substance or meaning of the
44 communication which:

45 (A) Has been sent or received by a user;

46 (B) Is in electronic storage by a custodian
47 providing an electronic-communication service to the public or is
48 carried or maintained by a custodian providing a remote-computing
49 service to the public; and

50 (C) Is not readily accessible to the public.

51 (7) "Court" means the chancery court.



52 (8) "Custodian" means a person that carries, maintains,
53 processes, receives, or stores a digital asset of a user.

54 (9) "Designated recipient" means a person chosen by a
55 user using an online tool to administer digital assets of the
56 user.

57 (10) "Digital asset" means an electronic record in
58 which an individual has a right or interest. The term does not
59 include an underlying asset or liability unless the asset or
60 liability is itself an electronic record.

61 (11) "Electronic" means relating to technology having
62 electrical, digital, magnetic, wireless, optical, electromagnetic,
63 or similar capabilities.

64 (12) "Electronic communication" has the meaning set
65 forth in 18 USC Section 2510(12).

66 (13) "Electronic-communication service" means a
67 custodian that provides to a user the ability to send or receive
68 an electronic communication.

69 (14) "Fiduciary" means an original, additional, or
70 successor personal representative, conservator, agent, or trustee.

71 (15) "Information" means data, text, images, videos,
72 sounds, codes, computer programs, software, databases, or the
73 like.

74 (16) "Online tool" means an electronic service provided
75 by a custodian that allows the user, in an agreement distinct from
76 the terms-of-service agreement between the custodian and user, to



77 provide directions for disclosure or nondisclosure of digital
78 assets to a third person.

79 (17) "Person" means an individual, estate, business or
80 nonprofit entity, public corporation, government or governmental
81 subdivision, agency, or instrumentality, or other legal entity.

82 (18) "Personal representative" means an executor,
83 administrator, special administrator, or person that performs
84 substantially the same function under law of this state other than
85 this act.

86 (19) "Power of attorney" means a record that grants an
87 agent authority to act in the place of a principal.

88 (20) "Principal" means an individual who grants
89 authority to an agent in a power of attorney.

90 (21) "Protected person" means a ward or other
91 individual for whom a conservator has been appointed and includes
92 an individual for whom an application for the appointment of a
93 conservator is pending.

94 (22) "Record" means information that is inscribed on a
95 tangible medium or that is stored in an electronic or other medium
96 and is retrievable in perceivable form.

97 (23) "Remote-computing service" means a custodian that
98 provides to a user computer-processing services or the storage of
99 digital assets by means of an electronic communications system, as
100 defined in 18 USC Section 2510(14).



101 (24) "Terms-of-service agreement" means an agreement
102 that controls the relationship between a user and a custodian.

103 (25) "Trustee" means a fiduciary with legal title to
104 property under an agreement or declaration that creates a
105 beneficial interest in another. The term includes a successor
106 trustee.

107 (26) "User" means a person that has an account with a
108 custodian.

109 (27) "Will" includes a codicil, testamentary instrument
110 that only appoints an executor, and instrument that revokes or
111 revises a testamentary instrument.

112 **SECTION 3. Applicability.** (a) This act applies to:

113 (1) A fiduciary acting under a will or power of
114 attorney executed before, on, or after the effective date of this
115 act;

116 (2) A personal representative acting for a decedent who
117 died before, on, or after the effective date of this act;

118 (3) A conservatorship proceeding commenced before, on,
119 or after the effective date of this act; and

120 (4) A trustee acting under a trust created before, on,
121 or after the effective date of this act.

122 (b) This act applies to a custodian if the user resides in
123 this state or resided in this state at the time of the user's
124 death.



125 (c) This act does not apply to a digital asset of an
126 employer used by an employee in the ordinary course of the
127 employer's business.

128 **SECTION 4. User direction for disclosure of digital assets.**

129 (a) A user may use an online tool to direct the custodian to
130 disclose or not to disclose some or all of the user's digital
131 assets, including the content of electronic communications. If
132 the online tool allows the user to modify or delete a direction at
133 all times, a direction regarding disclosure using an online tool
134 overrides a contrary direction by the user in a will, trust, power
135 of attorney or other record.

136 (b) If a user has not used an online tool to give direction
137 under subsection (a) or if the custodian has not provided an
138 online tool, the user may allow or prohibit in a will, trust,
139 power of attorney, or other record, disclosure to a fiduciary of
140 some or all of the user's digital assets, including the content of
141 electronic communications sent or received by the user.

142 (c) A user's direction under subsection (a) or (b) overrides
143 a contrary provision in a terms-of-service agreement that does not
144 require the user to act affirmatively and distinctly from the
145 user's assent to the terms of service.

146 **SECTION 5. Terms-of-service agreement.** (a) This act does
147 not change or impair a right of a custodian or a user under a
148 terms-of-service agreement to access and use digital assets of the
149 user.



150 (b) This act does not give a fiduciary any new or expanded
151 rights other than those held by the user for whom, or for whose
152 estate, the fiduciary acts or represents.

153 (c) A fiduciary's access to digital assets may be modified
154 or eliminated by a user, by federal law, or by a terms-of-service
155 agreement if the user has not provided direction under Section 4.

156 **SECTION 6. Procedure for disclosing digital assets.** (a)

157 When disclosing digital assets of a user under this act, the
158 custodian may at its sole discretion:

159 (1) Grant a fiduciary or designated recipient full
160 access to the user's account;

161 (2) Grant a fiduciary or designated recipient partial
162 access to the user's account sufficient to perform the tasks with
163 which the fiduciary or designated recipient is charged; or

164 (3) Provide a fiduciary or designated recipient a copy
165 in a record of any digital asset that, on the date the custodian
166 received the request for disclosure, the user could have accessed
167 if the user were alive and had full capacity and access to the
168 account.

169 (b) A custodian may assess a reasonable administrative
170 charge for the cost of disclosing digital assets under this act.

171 (c) A custodian need not disclose under this act a digital
172 asset deleted by a user.

173 (d) If a user directs or a fiduciary requests a custodian to
174 disclose under this act some, but not all, of the user's digital



175 assets, the custodian need not disclose the assets if segregation
176 of the assets would impose an undue burden on the custodian. If
177 the custodian believes the direction or request imposes an undue
178 burden, the custodian or fiduciary may seek an order from the
179 court to disclose:

180 (1) A subset limited by date of the user's digital
181 assets;

182 (2) All of the user's digital assets to the fiduciary
183 or designated recipient;

184 (3) None of the user's digital assets; or

185 (4) All of the user's digital assets to the court for
186 review in camera.

187 **SECTION 7. Disclosure of content of electronic**

188 **communications of deceased user.** If a deceased user consented or
189 a court directs disclosure of the contents of electronic
190 communications of the user, the custodian shall disclose to the
191 personal representative of the estate of the user the content of
192 an electronic communication sent or received by the user if the
193 representative gives the custodian:

194 (1) A written request for disclosure in physical or
195 electronic form;

196 (2) A certified copy of the death certificate of the
197 user;

198 (3) A certified copy of letters of administration or
199 letters testamentary of the representative;



200 (4) Unless the user provided direction using an online
201 tool, a copy of the user's will, trust, power of attorney, or
202 other record evidencing the user's consent to disclosure of the
203 content of electronic communications; and

204 (5) If requested by the custodian:

205 (A) A number, username, address, or other unique
206 subscriber or account identifier assigned by the custodian to
207 identify the user's account;

208 (B) Evidence linking the account to the user; or

209 (C) A finding by the court that:

210 (i) The user had a specific account with the
211 custodian, identifiable by the information specified in
212 subparagraph (A);

213 (ii) Disclosure of the content of electronic
214 communications of the user would not violate 18 USC Section 2701
215 et seq., 47 USC Section 222, or other applicable law;

216 (iii) Unless the user provided direction
217 using an online tool, the user consented to disclosure of the
218 content of electronic communications; or

219 (iv) Disclosure of the content of electronic
220 communications of the user is reasonably necessary for
221 administration of the estate.

222 **SECTION 8. Disclosure of other digital assets of deceased**
223 **user.** Unless the user prohibited disclosure of digital assets or
224 the court directs otherwise, a custodian shall disclose to the



225 personal representative of the estate of a deceased user a
226 catalogue of electronic communications sent or received by the
227 user and digital assets, other than the content of electronic
228 communications, of the user, if the representative gives the
229 custodian:

230 (1) A written request for disclosure in physical or
231 electronic form;

232 (2) A certified copy of the death certificate of the
233 user;

234 (3) A certified copy of letters of administration or
235 letters testamentary of the representative; and

236 (4) If requested by the custodian:

237 (A) A number, username, address, or other unique
238 subscriber or account identifier assigned by the custodian to
239 identify the user's account;

240 (B) Evidence linking the account to the user;

241 (C) An affidavit stating that disclosure of the
242 user's digital assets is reasonably necessary for administration
243 of the estate; or

244 (D) A finding by the court that:

245 (i) The user had a specific account with the
246 custodian, identifiable by the information specified in
247 subparagraph (A); or

248 (ii) Disclosure of the user's digital assets
249 is reasonably necessary for administration of the estate.



250 **SECTION 9. Disclosure of content of electronic**

251 **communications of principal.** To the extent a power of attorney
252 expressly grants an agent authority over the content of electronic
253 communications sent or received by the principal and unless
254 directed otherwise by the principal or the court, a custodian
255 shall disclose to the agent the content if the agent gives the
256 custodian:

257 (1) A written request for disclosure in physical or
258 electronic form;

259 (2) An original or copy of the power of attorney
260 expressly granting the agent authority over the content of
261 electronic communications of the principal;

262 (3) A certification by the agent, under penalty of
263 perjury, that the power of attorney is in effect; and

264 (4) If requested by the custodian:

265 (A) A number, username, address, or other unique
266 subscriber or account identifier assigned by the custodian to
267 identify the principal's account; or

268 (B) Evidence linking the account to the principal.

269 **SECTION 10. Disclosure of other digital assets of principal.**

270 Unless otherwise ordered by the court, directed by the principal,
271 or provided by a power of attorney, a custodian shall disclose to
272 an agent with specific authority over digital assets or general
273 authority to act on behalf of a principal a catalogue of
274 electronic communications sent or received by the principal and



275 digital assets, other than the content of electronic
276 communications, of the principal if the agent gives the custodian:

277 (1) A written request for disclosure in physical or
278 electronic form;

279 (2) An original or a copy of the power of attorney that
280 gives the agent specific authority over digital assets or general
281 authority to act on behalf of the principal;

282 (3) A certification by the agent, under penalty of
283 perjury, that the power of attorney is in effect; and

284 (4) If requested by the custodian:

285 (A) A number, username, address, or other unique
286 subscriber or account identifier assigned by the custodian to
287 identify the principal's account; or

288 (B) Evidence linking the account to the principal.

289 **SECTION 11. Disclosure of digital assets held in trust when**
290 **trustee is original user.** Unless otherwise ordered by the court
291 or provided in a trust, a custodian shall disclose to a trustee
292 that is an original user of an account any digital asset of the
293 account held in trust, including a catalogue of electronic
294 communications of the trustee and the content of electronic
295 communications.

296 **SECTION 12. Disclosure of contents of electronic**
297 **communications held in trust when trustee not original user.**
298 Unless otherwise ordered by the court, directed by the user, or
299 provided in a trust, a custodian shall disclose to a trustee that



300 is not an original user of an account the content of an electronic
301 communication sent or received by an original or successor user
302 and carried, maintained, processed, received, or stored by the
303 custodian in the account of the trust if the trustee gives the
304 custodian:

305 (1) A written request for disclosure in physical or
306 electronic form;

307 (2) A certified copy of the trust instrument or a
308 certification of the trust under Section 91-8-1013 that includes
309 consent to disclosure of the content of electronic communications
310 to the trustee;

311 (3) A certification by the trustee, under penalty of
312 perjury, that the trust exists and the trustee is a currently
313 acting trustee of the trust; and

314 (4) If requested by the custodian:

315 (A) A number, username, address, or other unique
316 subscriber or account identifier assigned by the custodian to
317 identify the trust's account; or

318 (B) Evidence linking the account to the trust.

319 **SECTION 13. Disclosure of other digital assets held in trust**
320 **when trustee not original user.** Unless otherwise ordered by the
321 court, directed by the user, or provided in a trust, a custodian
322 shall disclose, to a trustee that is not an original user of an
323 account, a catalogue of electronic communications sent or received
324 by an original or successor user and stored, carried, or



325 maintained by the custodian in an account of the trust and any
326 digital assets, other than the content of electronic
327 communications, in which the trust has a right or interest if the
328 trustee gives the custodian:

329 (1) A written request for disclosure in physical or
330 electronic form;

331 (2) A certified copy of the trust instrument or a
332 certification of the trust under Section 91-8-1013;

333 (3) A certification by the trustee, under penalty of
334 perjury, that the trust exists and the trustee is a currently
335 acting trustee of the trust; and

336 (4) If requested by the custodian:

337 (A) A number, username, address, or other unique
338 subscriber or account identifier assigned by the custodian to
339 identify the trust's account; or

340 (B) Evidence linking the account to the trust.

341 **SECTION 14. Disclosure of digital assets to conservator of**

342 **protected person.** (a) After an opportunity for a hearing under
343 Chapter 13, Title 93, Mississippi Code of 1972, the court may
344 grant a conservator access to the digital assets of a protected
345 person.

346 (b) Unless otherwise ordered by the court or directed by the
347 user, a custodian shall disclose to a conservator the catalogue of
348 electronic communications sent or received by a protected person
349 and any digital assets, other than the content of electronic



350 communications, in which the protected person has a right or
351 interest if the conservator gives the custodian:

352 (1) A written request for disclosure in physical or
353 electronic form;

354 (2) A certified copy of the court order that gives the
355 conservator authority over the digital assets of the protected
356 person; and

357 (3) If requested by the custodian:

358 (A) A number, username, address, or other unique
359 subscriber or account identifier assigned by the custodian to
360 identify the account of the protected person; or

361 (B) Evidence linking the account to the protected
362 person.

363 (c) A conservator with general authority to manage the
364 assets of a protected person may request a custodian of the
365 digital assets of the protected person to suspend or terminate an
366 account of the protected person for good cause. A request made
367 under this section must be accompanied by a certified copy of the
368 court order giving the conservator authority over the protected
369 person's property.

370 **SECTION 15. Fiduciary duty and authority.** (a) The legal
371 duties imposed on a fiduciary charged with managing tangible
372 property apply to the management of digital assets, including:

373 (1) The duty of care;

374 (2) The duty of loyalty; and



375 (3) The duty of confidentiality.

376 (b) A fiduciary's authority with respect to a digital asset
377 of a user:

378 (1) Except as otherwise provided in Section 4, is
379 subject to the applicable terms of service;

380 (2) Is subject to other applicable law, including
381 copyright law;

382 (3) Is limited by the scope of the fiduciary's duties;
383 and

384 (4) May not be used to impersonate the user.

385 (c) A fiduciary with authority over the property of a
386 decedent, protected person, principal, or settlor has the right to
387 access any digital asset in which the decedent, protected person,
388 principal, or settlor had a right or interest and that is not held
389 by a custodian or subject to a terms-of-service agreement.

390 (d) A fiduciary acting within the scope of the fiduciary's
391 duties is an authorized user of the property of the decedent,
392 protected person, principal, or settlor for the purpose of
393 applicable computer-fraud and unauthorized-computer-access laws,
394 including Section 97-45-3.

395 (e) A fiduciary with authority over the tangible, personal
396 property of a decedent, protected person, principal, or settlor:

397 (1) Has the right to access the property and any
398 digital asset stored in it; and



399 (2) Is an authorized user for the purpose of
400 computer-fraud and unauthorized-computer-access laws, including
401 Section 97-45-3.

402 (f) A custodian may disclose information in an account to a
403 fiduciary of the user when the information is required to
404 terminate an account used to access digital assets licensed to the
405 user.

406 (g) A fiduciary of a user may request a custodian to
407 terminate the user's account. A request for termination must be
408 in writing, in either physical or electronic form, and accompanied
409 by:

410 (1) If the user is deceased, a certified copy of the
411 death certificate of the user;

412 (2) A certified copy of the letters of administration
413 or letters testamentary of the representative, court order, power
414 of attorney, or trust giving the fiduciary authority over the
415 account; and

416 (3) If requested by the custodian:

417 (A) A number, username, address, or other unique
418 subscriber or account identifier assigned by the custodian to
419 identify the user's account;

420 (B) Evidence linking the account to the user; or

421 (C) A finding by the court that the user had a
422 specific account with the custodian, identifiable by the
423 information specified in subparagraph (A).



424 **SECTION 16. Custodian compliance and immunity.** (a) Not
425 later than sixty (60) days after receipt of the information
426 required under Sections 7 through 14 of this act, a custodian
427 shall comply with a request under this act from a fiduciary or
428 designated recipient to disclose digital assets or terminate an
429 account. If the custodian fails to comply, the fiduciary or
430 designated recipient may apply to the court for an order directing
431 compliance.

432 (b) An order under subsection (a) directing compliance must
433 contain a finding that compliance is not in violation of 18 USC
434 Section 2702.

435 (c) A custodian may notify the user that a request for
436 disclosure or to terminate an account was made under this act.

437 (d) A custodian may deny a request under this act from a
438 fiduciary or designated recipient for disclosure of digital assets
439 or to terminate an account if the custodian is aware of any lawful
440 access to the account following the receipt of the fiduciary's
441 request.

442 (e) This act does not limit a custodian's ability to obtain
443 or require a fiduciary or designated recipient requesting
444 disclosure or termination under this act to obtain a court order
445 which:

446 (1) Specifies that an account belongs to the protected
447 person or principal;



448 (2) Specifies that there is sufficient consent from the
449 protected person or principal to support the requested disclosure;
450 and

451 (3) Contains a finding required by law other than this
452 act.

453 (f) A custodian and its officers, employees, and agents are
454 immune from liability for an act or omission done in good faith in
455 compliance with this act.

456 **SECTION 17. Uniformity of application and construction.** In
457 applying and construing this uniform act, consideration must be
458 given to the need to promote uniformity of the law with respect to
459 its subject matter among states that enact it.

460 **SECTION 18. Relation to Electronic Signatures in Global and**
461 **National Commerce Act.** This act modifies, limits, or supersedes
462 the Electronic Signatures in Global and National Commerce Act, 15
463 USC Section 7001 et seq., but does not modify, limit, or supersede
464 Section 101(c) of that act, 15 USC Section 7001(c), or authorize
465 electronic delivery of any of the notices described in Section
466 103(b) of that act, 15 USC Section 7003(b).

467 **SECTION 19.** Section 87-3-7, Mississippi Code of 1972, is
468 amended as follows:

469 87-3-7. (1) A letter of attorney to transact any business
470 need only express plainly the authority conferred.

471 (2) If any power of attorney or other writing (a) authorizes
472 an attorney-in-fact or other agent to do, execute or perform any



473 act that the principal might or could do, or (b) evidences the
474 principal's intent to give the attorney-in-fact or agent full
475 power to handle the principal's affairs or deal with the
476 principal's property, the attorney-in-fact or agent shall have the
477 power and authority to make gifts in any amount of any of the
478 principal's property to any individuals or to any organizations
479 described in Sections 170(c) and 2522(a) of the Internal Revenue
480 Code or corresponding future provisions of federal tax law, or
481 both, in accordance with the principal's personal history of
482 making or joining in the making of lifetime gifts, including the
483 authority to exercise all rights and powers granted to a fiduciary
484 under the Revised Uniform Fiduciary Access to Digital Assets Act
485 created in Sections 1 through 18 of this act.

486 (3) Subsection (2) as set forth above is declaratory of past
487 and present law in the State of Mississippi, and shall be applied
488 to all powers of attorney, whether executed before, on or after
489 March 16, 1999.

490 **SECTION 20.** Section 81-5-34, Mississippi Code of 1972, is
491 amended as follows:

492 81-5-34. Any bank, including a national bank, may accept
493 accounts in the name of any administrator, executor, guardian,
494 trustee or other fiduciary in trust for a named beneficiary or
495 beneficiaries, including the authority to exercise all rights and
496 powers granted to a fiduciary under the Revised Uniform Fiduciary
497 Access to Digital Assets Act created in Sections 1 through 18 of



498 this act. Any such fiduciary shall have the power to make
499 payments upon and to withdraw any such account, in whole or in
500 part. The withdrawal value of any such account or other rights
501 relating thereto may be paid or delivered, in whole or in part, to
502 such fiduciary, without regard to any notice to the contrary, as
503 long as such fiduciary is living. The payment or delivery to any
504 such fiduciary or a receipt of acquittance signed by any such
505 fiduciary to whom any such payment or any such delivery of rights
506 is made shall be valid and sufficient release and discharge of any
507 bank for the payment or delivery so made. Whenever a person
508 holding an account in a fiduciary capacity dies, and no written
509 notice of the revocation or termination of the trust relationship
510 has been given to a bank and the bank has no notice of any other
511 disposition of the trust estate, the withdrawal value of such
512 account or other rights relating thereto may, at the option of a
513 bank, be paid or delivered, in whole or in part, to the
514 beneficiary or beneficiaries of such trust. Whenever an account
515 shall be opened by any person describing himself in opening such
516 account as trustee for another, and there is no other or further
517 notice of the existence and terms of a legal and valid trust, then
518 such description shall be given in writing to such bank. In the
519 event of the death of the person so described as trustee, the
520 withdrawal value of such account or any part thereof may be paid
521 to the person for whom the account was thus stated to have been
522 opened, and such account and all additions thereto shall be the



523 property of such person, unless prior to payment the trust
524 agreement is presented to the bank showing a contrary interest.
525 When made in accord with this section, the payment or delivery to
526 any such beneficiary, beneficiaries or designated person, or a
527 receipt or acquittance signed by any such beneficiary,
528 beneficiaries or designated person for any such payment or
529 delivery, shall be valid and sufficient release and discharge of a
530 bank for the payment or delivery so made. Trust accounts
531 permitted by this section shall not be required to be acknowledged
532 and recorded. When an account is opened in a form described in
533 this section, the right set forth in Section 81-5-62 shall apply.
534 No bank paying any beneficiary in accordance with the provisions
535 of this section shall thereby be liable for any estate,
536 inheritance or succession taxes which may be due this state. The
537 term "accounts" or "account" as used in this section shall
538 include, but not be limited to, any form of deposit or account,
539 such as a savings account, checking account, time deposit, demand
540 deposit or certificate of deposit, whether negotiable,
541 nonnegotiable or otherwise.

542 **SECTION 21.** Section 91-8-303, Mississippi Code of 1972, is
543 amended as follows:

544 91-8-303. To the extent there is no material conflict of
545 interest between the representative and the person represented or
546 among those being represented with respect to a particular
547 question or dispute:



548 (1) A conservator or guardian may represent and bind
549 the estate that the conservator or guardian controls;

550 (2) A conservator or guardian may represent and bind
551 the ward if a conservator or guardian of the ward's estate has not
552 been appointed;

553 (3) An agent having authority to act with respect to
554 the particular question or dispute may represent and bind the
555 principal;

556 (4) A trustee may represent and bind the beneficiaries
557 of the trust;

558 (5) A personal representative of a decedent's estate
559 may represent and bind persons interested in the estate;

560 (6) A parent may represent and bind the person's minor
561 or unborn child if a conservator or guardian for the descendant
562 has not been appointed;

563 (7) A grandparent may represent the grandparent's
564 grandchild if that grandchild is not already represented by a
565 parent under paragraph (6); * * *

566 (8) A person designated by the settlor in the trust
567 instrument or in a writing delivered to the trustee to represent
568 the beneficiaries of the trust may represent and bind such
569 beneficiaries * * *; and

570 (9) Any person acting in a fiduciary capacity shall
571 exercise all rights and powers granted to a fiduciary under the



572 Revised Uniform Fiduciary Access to Digital Assets Act created in
573 Sections 1 through 18 of this act.

574 **SECTION 22.** Section 87-3-109, Mississippi Code of 1972, is
575 amended as follows:

576 87-3-109. (1) If, following execution of a durable power of
577 attorney, a court of the principal's domicile appoints a
578 conservator, guardian of the estate, or other fiduciary charged
579 with the management of all of the principal's property or all of
580 his property except specified exclusions, the attorney in fact is
581 accountable to the fiduciary as well as to the principal. The
582 fiduciary has the same power to revoke or amend the power of
583 attorney that the principal would have had if he were not disabled
584 or incapacitated.

585 (2) A principal may nominate, by a durable power of
586 attorney, the conservator, guardian of his estate, or guardian of
587 his person for consideration by the court if protective
588 proceedings for the principal's person or estate are thereafter
589 commenced. The court shall make its appointment in accordance
590 with the principal's most recent nomination in a durable power of
591 attorney except for good cause or disqualification.

592 (3) Any person acting in a fiduciary capacity shall exercise
593 all rights and powers granted to a fiduciary under the Revised
594 Uniform Fiduciary Access to Digital Assets Act created in Sections
595 1 through 18 of this act.



596 **SECTION 23.** Section 99-35-1, Mississippi Code of 1972, is
597 amended as follows:

598 99-35-1. In all cases of conviction of a criminal offense
599 against the laws of the state by the judgment of a justice court,
600 or by a municipal court, for the violation of an ordinance
601 thereof, an appeal may be taken within forty (40) days from the
602 date of such judgment of conviction to the county court of the
603 county * * * which shall stay the judgment appealed from. Any
604 person appealing a judgment of a justice court or a municipal
605 court under this section shall post bond for court costs relating
606 to such appeal. The amount of such bond shall be determined by
607 the justice court judge or municipal judge, payable to the state
608 in an amount of not less than One Hundred Dollars (\$100.00) nor
609 more than One Thousand Dollars (\$1,000.00).

610 On appearance of the appellant in the * * * county court the
611 case shall be tried anew and disposed of as other cases pending
612 therein.

613 **SECTION 24.** This act shall take effect and be in force from
614 and after July 1, 2017.

