

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 24, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2158 by Parker (Relating to the adoption of the Texas Revised Uniform Fiduciary Access to Digital Assets Act.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add a chapter to the Estates Code to adopt the Revised Uniform Fiduciary Access to Digital Assets Act, which would govern the management of digital assets and electronic communication by an estate administrator or other fiduciary agent. The Act would clarify the authority of various types of fiduciaries already recognized by Texas law, including administrators of decedents' estates, court-appointed guardians or conservators, agents established by power of attorney, and certain trustees.

The Act would establish the mechanisms by which an individual can plan for the management and disposition of digital assets and electronic communication by leaving a set of instructions to be followed by a fiduciary. It would establish procedures by which a court must adjudicate the disclosure of any such assets and communications to the fiduciary, and would set forth additional procedures for the resolution of conflicting instructions and for the disposition of assets in the absence of any instructions. The Act would also clarify that all duties imposed on a fiduciary managing tangible property would apply in the context of digital asset and electronic communication management.

The Act would address the rights and responsibilities of server hosts and other custodians. It would afford custodians with immunity from liability for any acts or omissions done in good-faith compliance with the Act.

The bill would make additional conforming changes in various sections of the Estates Code, and would amend the Property Code to reflect that some powers of attorney will include the right to access digital assets.

The bill outlines a number of new procedures to be followed by the courts, but any increased workload would likely be absorbed by existing resources. No significant fiscal impact on the state court system or local courts is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, LBO, SD, SJS, AG