

## Session 121 - (2015-2016)

### H 3444 General Bill, By McKnight, M.S. McLeod, Bamberg, Collins, Bales, Hart and Henegan

**Similar (S 0908, H 4627)**

**Summary:** S.C. Uniform Fiduciary Access to Digital Assets Act

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "SOUTH CAROLINA UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT" BY ADDING PART 10 TO ARTICLE 2, CHAPTER 2, TITLE 62 SO AS TO ESTABLISH A FRAMEWORK FOR THE MANAGEMENT AND DISPOSITION OF DIGITAL ASSETS UPON DEATH OR INCAPACITATION; TO DEFINE TERMS; TO SET FORTH THE APPLICABILITY OF THE ACT TO FIDUCIARIES, AGENTS, PERSONAL REPRESENTATIVES, CONSERVATORS, GUARDIANS, AND TRUSTEES; TO PROVIDE THAT THE ACT DOES NOT APPLY TO A DIGITAL ASSET OF AN EMPLOYER THAT IS USED BY AN EMPLOYEE IN THE ORDINARY COURSE OF BUSINESS; TO ENUMERATE THE RIGHTS AND LIMITATIONS OF A PERSONAL REPRESENTATIVE OF A DECEDENT TO ACCESS THE ELECTRONIC COMMUNICATIONS OR DIGITAL ASSETS OF THE DECEDENT; TO PERMIT A COURT TO GRANT A CONSERVATOR OR GUARDIAN THE RIGHT TO ACCESS ELECTRONIC COMMUNICATIONS OF A PROTECTED PERSON AFTER A HEARING CONDUCTED PURSUANT TO APPLICABLE STATE LAW; TO ENUMERATE THE RIGHTS AND LIMITATIONS OF AN AGENT TO ACCESS A PRINCIPAL'S ELECTRONIC COMMUNICATIONS AND DIGITAL ASSETS; TO ENUMERATE THE RIGHTS AND LIMITATIONS OF A TRUSTEE, OR SUCCESSOR OF A TRUSTEE TO ACCESS THE ELECTRONIC COMMUNICATIONS AND DIGITAL ASSETS OF AN ACCOUNT HOLDER OR SUCCESSOR ACCOUNT HOLDER; TO PROVIDE THAT A FIDUCIARY WHO IS AN ACCOUNT HOLDER OR HAS THE RIGHT UNDER THIS ACT TO ACCESS AN ACCOUNT HOLDER'S DIGITAL ASSETS MAY DO SO, SUBJECT TO CERTAIN LIMITATIONS; TO PROVIDE THAT AN ACCOUNT HOLDER MAY LIMIT A FIDUCIARY'S ACCESS TO ANY DIGITAL ASSET BY AFFIRMATIVE ACT, SEPARATE FROM HIS OR HER ASSENT TO OTHER PROVISIONS, IN A TERMS-OF-SERVICE AGREEMENT; TO SPECIFY WHEN A PROVISION IN A TERMS-OF-SERVICE AGREEMENT IS VOID AS AGAINST THE PUBLIC POLICY OF SOUTH CAROLINA; TO PROVIDE THAT A CHOICE-OF-LAW PROVISION IN AN AGREEMENT IS UNENFORCEABLE TO THE EXTENT THAT IT LIMITS A FIDUCIARY'S ACCESS TO A DIGITAL ASSET UNDER THIS ACT; TO ALLOW A FIDUCIARY WITH AUTHORITY OVER THE PROPERTY OF A DECEDENT, PROTECTED PERSON, PRINCIPAL, OR SETTLOR TO ACCESS TANGIBLE PROPERTY CONTAINING DIGITAL ASSETS; TO SPECIFY THE DOCUMENTS OR INSTRUMENTS THAT A FIDUCIARY MUST PROVIDE TO A CUSTODIAN IN ORDER TO ACCESS, CONTROL, OR COPY A DIGITAL ASSET; TO PROVIDE THAT A CUSTODIAN MUST COMPLY WITH A REQUEST MADE PURSUANT TO THIS SECTION WITHIN SIXTY DAYS OF RECEIPT OF THE REQUEST; TO REQUIRE THAT THE PROVISIONS OF THIS ACT BE APPLIED AND CONSTRUED SO AS TO PROMOTE UNIFORMITY OF LAW AMONG THE STATES; AND TO ESTABLISH CONFORMITY WITH FEDERAL REQUIREMENTS RELATED TO ELECTRONIC SIGNATURES AND RECORDS.

01/28/15 House Introduced and read first time (House Journal-page 13)

01/28/15 House Referred to Committee on Judiciary (House Journal-page 13)