

YOUR IPHONE CAN (FINALLY!) BE PART OF YOUR ESTATE PLAN

BY DAVID M. LENZ

What happens to everything stored in your iPhone when you pass away? With the latest iOS update, you now have the power to decide.

How long do you go during the day without touching your smartphone? We use them constantly to text with friends, check in on social media, look up a random fact to settle an argument, or snap a quick photo. The files, pictures, and data stored on or accessed through these devices are almost an extension of who we are. What happens to this information when you are no longer there to access it? Can your surviving spouse or children access the joyful memories in your Camera Roll to comfort them in their sorrow, or is this dynamic digital extension of you now a mere paperweight?

I worked with the Ohio State Bar Association five years ago to help Ohio adopt the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) to help fiduciaries gain access to deceased users' digital accounts. A key concept in this law is the "online tool," which is basically a beneficiary designation for a digital account. Just as your life insurance or IRA passes to the beneficiary you name on a form the custodian provides, an "online tool" allows your digital accounts to pass to the person you designate. Google's online tool, which has been around for years, is the "Inactive Account Manager," and Facebook's well-established tool is their "Legacy Contact." Apple, home of everything in your iCloud account, has not had such an online tool—until now.



There are several cases from Probate Courts in New York where survivors have petitioned for access to photos and other iCloud account information. RUFADAA, which exists in New York as well as Ohio, protects a deceased user's private communications while giving access to other information. The Courts have not granted blanket access to the iCloud account, needing instead to parse which pieces were permissible and which were digital communications, which receive higher protection. The process was time-consuming, frustrating, and expensive for survivors.

In iOS 15.2, Apple finally built a way around this problem. They now have an "online tool" for iCloud accounts, called a "Legacy Contact." To set up this feature:

- Go to "Settings" and tap your name.
- Tap "Password and Security."
- Tap "Legacy Contact."
- Tap "Add Legacy Contact," and either choose someone from your family sharing group or anyone from your contacts list—he or she does not even need to have an Apple account of his or her own.
- Your device will generate an Access Key, which you can send to your Contact electronically, print and give to them, or print and store with your estate plan documents. After your death, the Legacy Contact will use this digital key and a copy of your death certificate to access the account.

LEGAL UPDATE

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Data that the Legacy Contact may access include anything stored in the iCloud account, such as:



Photos



Messages in iCloud



Notes



Files in iCloud Drive



Mail



Health data



Contacts



Safari bookmarks and reading list



Calendars



Almost anything else stored in iCloud backup

There are a few exceptions the Legacy Contact cannot access, including:



Licensed media (e.g., music, movies, and books) purchased by you



Payment information



In-app purchases



Keychain usernames and passwords

If you have an Apple account and have not set up your Legacy Contact, your survivors may still use the old process of submitting documents to Apple and petitioning the Court for access to certain items. However, you can take less than 5 minutes now to set up this feature, saving them hours of hassle and hundreds of dollars in fees to access this important information.

Please do not hesitate to contact attorney David M. Lenz at 216-696-4200. We are also available via email or video conference to assist you in any way we can.