



# OLR RESEARCH REPORT

February 15, 2013

2013-R-0156

## **ACCESS TO A DECEASED PERSON'S FACEBOOK ACCOUNT**

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You asked what happens to a person's Facebook account, under Connecticut law, when the person dies.

### **SUMMARY**

In Connecticut, what happens to a person's Facebook account after the person dies generally depends on Facebook privacy policy and what, if any, specific instructions were included in the deceased person's estate plan. A person can include specific instructions in his or her estate plan with final wishes on digital assets, such as Facebook accounts. State law does not address the issue, but the 1986 federal Electronic Communications Privacy Act prevents the disclosure of stored communications without the owner's consent or a court order.

Facebook's privacy policy prohibits the sharing of a deceased user's login information with anyone, including the next-of-kin. Under the policy, a deceased person's Facebook account can either be memorialized or deleted by the company upon request. Memorializing the account removes certain sensitive information, like status updates, and restricts profile access to confirmed friends only. A request to memorialize an account can be made by anyone who discloses his or her relationship to the deceased and provides proof of death. Deleting the account completely removes the timeline and all associated content from Facebook. A request to delete the account can be made only by a verified immediate family member or estate executor.

## **FEDERAL LAW**

The 1986 Electronic Communications Privacy Act prevents the disclosure of stored communications without an owner's consent or a court order (18 USC §§ 2510–2522). This law was enacted before Facebook was established, but it could conceivably be interpreted to mean that access to a deceased person's data or online accounts can be denied.

## **CONNECTICUT LAW**

Connecticut has no law addressing access to a decedent's Facebook account. The law addressing digital assets applies only to email accounts, not Facebook. Specifically, Connecticut law requires email service producers to give estate executors and administrators access to, or copies of, the decedent's email account. The decedent must have been domiciled in the state at the time of death, and the estate executor or administrator must present proof of his or her status. The law defines an "electronic mail account" as an account that contains all email an end-user sent or received that the provider has stored in its regular course of business. It also contains other stored electronic information or record that is directly related to the electronic mail services provided to the end-user, including billing and payment information (CGS § [45a-334a](#)).

## **ESTATE PLAN**

Indiana, Idaho, and Oklahoma laws give estate executors power over social networking and blogging accounts as digital assets. Rhode Island is the only other state with such a law but, like Connecticut, its law applies only to email accounts.

People can include specific instructions in their estate plan with their final wishes regarding their digital assets, such as social networking and blogging accounts. According to the literature on digital legacy, companies tend to respect a decedent's wishes if consent and account details, including the password, are given in the estate plan. Depending on the company's policies, this may require an order from the probate court that has jurisdiction over the estate of the decedent.

## **FACEBOOK POLICY**

Facebook does not provide a user's login information to anyone, including next-of-kin. According to the company:

It is our policy to memorialize the account of a deceased person. In order to protect the privacy of the deceased person, we cannot provide login information for the account. However, once it has been memorialized, we take measures to secure the account. If you need to report a timeline to be memorialized, please contact us. Verified immediate family members may request the removal of a loved one's account from the site.

Facebook's policy of memorializing or deleting a deceased person's account was implemented in 2009 (see [Facebook Deceased User Policy \(http://www.facebook.com/help/150486848354038/\)](http://www.facebook.com/help/150486848354038/)).

### ***Memorializing an Account***

Facebook's policy allows a person to report the death of a user and request the memorialization of the person's account. The relationship to the deceased person must be disclosed and can be any of following:

1. immediate family (spouse, parent, sibling, child);
2. extended family (grandparent, aunt, uncle, cousin);
3. non-family (friend, co-worker, classmate); or
4. other.

The requestor must provide proof of death, which can be a link (URL) to an obituary or news article.

Memorializing the account removes certain sensitive information, like status updates, and restricts profile access to confirmed friends only. Friends of the deceased may still leave comments and photos on the account but no one has permission to log in or edit it.

Attached is a link to the [Facebook Memorialization Request Form \(http://www.facebook.com/help/contact/305593649477238?rdrhc\)](http://www.facebook.com/help/contact/305593649477238?rdrhc).

### ***Deleting an Account***

Facebook processes special requests from verified immediate family members, including requests to remove a decedent's account. Deleting the account completely removes the timeline and all associated content from Facebook, so no one can view it.

A request to delete a deceased person's Facebook account requires verification that the requestor is an immediate family member or executor. Examples of documents that Facebook accepts to verify relationship to the deceased include, (1) the deceased's birth certificate, (2) the deceased's death certificate, or (3) proof of authority under local law that the requestor is the lawful representative of the deceased or his or her estate.

Attached is a link to the [Facebook Removal Request Form](http://www.facebook.com/help/contact/?id=228813257197480) (<http://www.facebook.com/help/contact/?id=228813257197480>).

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