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Testimony of Suzanne Brown Walsh
Estates & Probate Section
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In SUPPORT of

HB5606, AAC the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act

Judiciary Committee
Friday, March 18, 2016

Senator Coleman, Representative Tong, thank you for the opportunity to offer testimony in SUPPORT of HB 5606.

My name is Suzanne Brown Walsh. I am one of Connecticut's Uniform Law Commissioners, a partner in the Trusts & Estates practice group of Murtha Cullina LLP, and past Chair of both the Estates & Probate and Elder Law Sections of the Connecticut Bar Association. I am also Vice Chair of the American College of Trusts and Estates Counsel's Digital Property Task Force.

I submit this testimony on behalf of the Estates & Probate Section of the CBA and urge you to SUPPORT the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act (CT RUFADAA), which is based on a revised uniform act produced by the Uniform Law Commission (ULC).

The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable. Connecticut has a long and successful history of enacting ULC acts including the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Transfers to Minors Act, and dozens of others. I chaired the ULC's drafting committee on Fiduciary Access to Digital Assets, and its Reporter was Professor Naomi Cahn of the GWU Law School in Washington, DC.

RB 5606 is necessary because the law has not kept pace with technological advances in the Internet age. A generation ago, a human being delivered our mail, photos were kept in albums, documents were filed in file cabinets, and money was deposited at the corner bank. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet. While Connecticut citizens have complete control over what happens to their tangible and intangible private property when they die or lose their legal capacity that is not always the case for their digital assets. HB5606 solves that problem.



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Digital assets are things like email, digital photos, electronic documents, music, movies, games, social media accounts and virtual currency such as Bitcoin. Digital assets can be extremely valuable—domain names have sold for more than \$35 million and the components of a virtual space station and asteroid sold five years ago for \$635,000 in the virtual gaming platform Entropia Universe.

This bill will give Connecticut citizens the power to plan for the management and disposition of their digital assets in the same way they can make plans for their tangible property: by providing instructions in a will, trust, or power of attorney or by using simple online planning tools.

Some of you may recall a similar bill last year that was strongly opposed by the Internet industry. This uniform act was revised over the summer and is now supported by the same firms that opposed the prior version. The revised act has been formally endorsed by the Association of American Retired Persons, the Center for Democracy and Technology, Facebook, Google and the National Academy of Elder Law Attorneys.

The 2015 revisions addressed privacy concerns and a potential conflict with federal privacy law. The revised act also encourages Internet services to offer online tools that allow the user to name a designated representative to receive account access if the user dies or loses capacity.

RB 5606 will authorize access to digital assets by four common types of fiduciaries:

1. Personal representatives of decedents' estates,
2. Court-appointed conservators of incapacitated persons' property,
3. Agents under a power of attorney, and
4. Trustees.

Enacting this legislation will give Connecticut citizens the ability to plan for disposition of their digital assets in the same way they can plan for their tangible assets. I ask for your support to advance this important legislation for the digital age.

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