

Managing Your Online Presence after Death



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As we become an increasingly technology-dependent society, so much of what we do is online. Between email, Facebook, photos, music and documents stored online or in the cloud, most of us will have built a considerable online presence when we die. This raises the questions, what should happen to our online assets? How should they be managed?

Traditional estate planning addresses tangible personal property, real estate, bank accounts and even intangible personal property such as stock certificates, but digital assets are not generally included in these distinct asset classes and must be handled more deliberately.

Many online assets can be valued on sentiment alone: family pictures and videos, for example. However, some digital assets also have monetary value and may require additional attention (or even protection) after death.

The solution for many may be as simple as being mindful of including your digital assets in your overall estate plan. Providing a clause in your Will to permit your Executor to have full access and authority to download, print, archive or manage your information, including winding down online services like Facebook, blogs, or email may be sufficient for your Executor to access what they want and to close the accounts that are no longer needed.

In some instances, however, you may not want an account closed right away. Facebook accounts oftentimes serve as a virtual memorial for loved ones who have passed, offering family members solace in a difficult time, but eventually, they do need to be managed.

Ultimately, the privacy policy of the accounts you hold during life will determine what options exist upon death. These policies continue to evolve as people manage more and more of their lives online. Facebook will generally allow for two options: 1) to close an account upon proof of death, or 2) convert the page to a memorial page. Many privacy policies prohibit third-parties from accessing accounts of another and making changes to such an account after death, so it's critical to know these policies and plan accordingly.

Those who maintain a more extensive online presence may wish to create a digital will. Such a document generally addresses the following:

1) Appoints a Digital Asset Executor (hereafter "Digital Executor") to administer your online accounts. The person should be tech-savvy enough to understand what is required to download, save, archive or delete critical information before closing an account. For this reason, the Digital Executor may differ from the Estate Executor. The

Digital Executor must also be attentive to any privacy concerns that may exist, including safeguarding your legacy from identity theft (even after death this can be an issue) or from others online who may have malicious intentions.

2) States clearly what your digital assets are, and how you want them managed. Do you want your Facebook account maintained for a period of time after death? Do you want your email account kept private? If so, you may request that no one read your emails prior to deleting your accounts. Of course if you go this route, be sure that the Executor to your Estate will not need any information found in such email accounts, like banking information for example. If critical information is contained in such an account, make sure that it is available to your Executor through some other avenue.

3) Be aware of the privacy policies of each account you own. Many online service providers have rules as to who can access your accounts after your death. To assist your Digital Executor in carrying out your wishes, provide him or her with your various (up-to-date) passwords. **One caveat:** never provide a list of passwords within your Will, as it becomes public record once probated and this information should be kept private. There are lots of services online that will help you manage online passwords and share them with the people you choose when the time is right.

This area of law is likely to change at a rapid pace as laws and privacy policies continue to adjust to the many legal and ethical questions that continue to arise with regard to digital assets. However, being mindful of your online presence is the first step, and as always in estate planning, a little pre-planning can go a long way to help your Executor(s) administer your estate and ensure that your wishes are carried out.