



Privacy Expectation Afterlife and Choices Act (PEAC)

An Act relative to protecting a decedent's private communications and stored contents while facilitating administration of a decedent's estate.

SECTION 1.

(A) A court of probate that by law has jurisdiction of the estate of a deceased user shall order a provider of electronic communications service to the public or a provider of remote computing service to the public to disclose to the executor or administrator of such estate a record or other information pertaining to the deceased user as described in 18 USC § 2702 but not including the contents of communications or stored contents, if the court makes the following findings of facts:

- (a) the user is deceased;
- (b) the deceased user was the subscriber to or customer of the provider;
- (c) the account(s) belonging to the deceased user have been identified with specificity, including a unique identifier assigned by the provider;

- (d) there are no other authorized users or owners of the deceased user's account(s);
- (e) disclosure is not in violation of 18 U.S.C. § 2701 *et seq.*, 47 U.S.C. § 222, or other applicable law;
- (f) the request for disclosure is narrowly tailored to effect the purpose of the administration of the estate,
- (g) the executor or administrator demonstrates a good faith belief that account records are relevant to resolve fiscal assets of the estate;
- (h) the request seeks information spanning no more than a year prior to the date of death; and
- (i) the request is not in conflict with the deceased user's will or testament.

(B) A provider shall be required to disclose to the executor or administrator of the estate of a deceased user the contents of the deceased user's account only if the executor or administrator gives the provider all of the following:

- (a) A written request for the contents of deceased user's account;
- (b) A copy of the death certificate of the deceased user; and
- (c) An order of the court of probate that by law has jurisdiction of the estate of a deceased user:
 - (i) finding that the will of the decedent or setting within the product or service regarding how the user's contents can be treated after a set period of inactivity or other event expressly consented to the disclosure of the contents of the deceased

user's account by the executor or administrator of the estate of the deceased user;

(ii) ordering that the estate shall first indemnify the provider from all liability in complying with the order;

(iii) finding that the user is deceased;

(iv) finding that the deceased user was the subscriber to or customer of the provider;

(v) finding that the account(s) belonging to the deceased user have been identified with specificity, including a unique identifier assigned by the provider;

(vi) finding that there are no other authorized users or owners of the deceased user's account(s); and

(vii) finding that disclosure of the contents is not in violation of 18 U.S.C. § 2701 *et seq.*, 47 U.S.C. § 222, or other applicable law.

SECTION 2

A court issuing an order pursuant to Section 1, on a motion made promptly by the provider, shall quash or modify such order, if compliance with such order otherwise would cause an undue burden on such provider, or any of the requirements in Section 1 are not satisfied.

SECTION 3

Notwithstanding Section 1, a provider cannot be compelled to disclose any record or any contents of communications if:

(a) the deceased user expressed a different intent through (1) deletion of the records or contents during the user's lifetime, or (2) affirmatively indicating through a setting within the product or service regarding how the user's records or contents can be treated after a set period of inactivity or other event;

(b) the provider is aware of any indication of lawful access to the account after the date of the deceased user's death; or

(c) disclosure violates other applicable law.

Nothing in this Act shall be interpreted to confer upon the recipient any greater rights in the contents than those enjoyed by the deceased user.

SECTION 4

A provider may notify the account that a request for information was made pursuant to Section 1, and may provide any current user of the account a reasonable period of time to object to disclosure, during which no disclosure shall be made. If a user notifies the provider that he or she objects, no disclosure shall be made.

SECTION 5

A provider shall not be required to allow any requesting party to assume control of the deceased user's account.

SECTION 6.

As used in this chapter—

(A) "contents", when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication, as defined in 18 U.S.C. § 2510(8) and includes the subject line of a communication;

(B) “electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

(i) any wire or oral communication;

(ii) any communication made through a tone-only paging device;

(iii) any communication from a tracking device; or

(iv) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds, as defined in 18 U.S.C. § 2510(12);

(C) “electronic communication service” means any service which provides to users thereof the ability to send or receive wire or electronic communications, as defined in 18 U.S.C. § 2510(15);

(D) “electronic communications system” means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications, as defined in 18 U.S.C. § 2510(14);

(E) “provider” means an electronic communications service or remote computing service as defined in this 18 U.S.C. § 2510 or 2711;

(F) “record or other information pertaining to a user” shall have the meaning given that term in 18 U.S.C. § 2702(c);

(G) “remote computing service” means the provision to the

public of computer storage or processing services by means of an electronic communications system, as defined in 18 U.S.C. § 2711(2); and

(H) “user” means any person or entity who—

(i) uses an electronic communication service; and

(ii) is duly authorized by the provider of such service to engage in such use, as defined in 18 U.S.C. § 2510(13).

SECTION 7.

A provider shall not be held liable in any civil or criminal action for compliance in good faith with a court order issued pursuant to this chapter.