

NetChoice *Promoting Convenience, Choice, and Commerce on the Net*

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The Honorable Joel Anderson
California State Senate
State Capitol, Room 5052
Sacramento, CA 95814

May 5, 2014

Re: Support for California SB 849, relating to decedents' estates

Dear Senator Anderson:

We support SB 849 because it strikes the right balance between the privacy rights of decedents, fiduciary access to online accounts, and service provider obligations under federal law.

Every day, some California residents die without having given much thought to what happens to their email accounts, online documents, and media files after they're gone. Often, their families and estate managers face a variety of company policies and conflicting state and federal laws. And the growing use of social media provides even more challenges for grieving families.

SB 849 properly addresses the many of these concerns by establishing a clear process for fiduciaries to request information from a decedent's online service providers. For example:

- To comply with federal law (18 USC § 2701), SB 849 requires fiduciaries to show "lawful consent" or obtain a court order before providers may disclose the contents of stored communications.
- Since some users choose their online services and options based on strong privacy protections and data deletion policies in the Terms of Service, SB 849 respects these choices and allows these privacy preferences to control.
- To protect the privacy of other individuals who had online communications with the decedent (e.g., private relationships, medical communications, etc.), SB 849 *authorizes*, but doesn't *require*, providers to grant access to a decedent's accounts.

SB 849 is modeled on current law in Rhode Island, which ensures that service providers who provide access to a decedent's accounts pursuant to a court order are indemnified if they are subsequently sued by other individuals involved in those communications.

For all of these reasons, we support and encourage your efforts to move forward with SB 849.

Thank you for considering our views. Please let us know if we can provide further information.

Sincerely,

A handwritten signature in black ink that reads "Steve DelBianco".

Steve DelBianco
Executive Director, NetChoice

A handwritten signature in black ink that reads "Carl M. Szabo".

Carl M. Szabo
Policy Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org