

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

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Sen. Bobby A. Zirkin  
2 East Miller Senate Office Building  
11 Bladen Street  
Annapolis, MD 21401

February 17, 2016

**RE: *Support for SB 239, Maryland Fiduciary Access to Digital Assets Act***

Dear Chairman Zirkin:

We write to support SB 239, the Maryland Fiduciary Access to Digital Assets Act.

We recognize the need of fiduciaries to wrap-up estates and some of the challenges fiduciaries face when it comes to accessing electronic communications of the deceased. At the same time we need to respect the privacy expectations of the deceased, the privacy of those with whom they communicated, and federal privacy law. To that end, the SB 239 achieves the balance for all these concerns.

Under SB 239, Maryland would allow its citizens to choose their afterlife privacy while allowing the fiduciary to wrap-up the estate and comply with federal law.

Other states are passing the model Revised Fiduciary Access to Digital Assets Act – earlier this month it passed the Florida Senate unanimously, and is moving in Arizona, Hawaii, Illinois, Michigan, Mississippi, Pennsylvania, South Carolina, Tennessee, West Virginia, and several other states.

Under SB 239:

- The privacy expectations, statements in a will, and settings chosen by users would remain after the user dies.
- Fiduciaries can see the banks, investment managers, and accountants with whom the deceased corresponded. This lets fiduciaries identify important interactions and contact those institutions as part of settling the estate.
- Fiduciaries can see the contents of communications *only* when the deceased expressly allowed it in their will, or when there is some other evidence of user consent. If the deceased allowed disclosure of these communications, then service providers must comply, subject to verification.

For all these reasons, we support SB 239. Thank you for considering our views. Please let me know if I can provide further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Szabo".

Carl Szabo  
Policy Counsel, NetChoice

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