

**395A.070 Disclosure of content of electronic communications of deceased user.**

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

- (1) A written request for disclosure in physical or electronic form;
- (2) A certified copy of the death certificate of the user;
- (3) A certified copy of the order of appointment of the personal representative, an order dispensing with administration pursuant to KRS 395.455, or other court order giving access to the personal representative;
- (4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and
- (5) If requested by the custodian:
  - (a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - (b) Evidence linking the account to the user; or
  - (c) A finding by the court that:
    1. The user had a specific account with the custodian, identifiable by the information specified in paragraph (a) of this subsection;
    2. Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. secs. 2701 et seq., as amended, 47 U.S.C. sec. 222, as amended, or other applicable law;
    3. Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or
    4. Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**Effective:** July 15, 2020

**History:** Created 2020 Ky. Acts ch. 63, sec. 6, effective July 15, 2020.