

2020 Kansas Statutes

58-4802. Definitions. In this act:

- (a) "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives or stores a digital asset of the user or provides goods or services to the user.
- (b) "Agent" means an attorney-in-fact granted authority under a durable or nondurable power of attorney.
- (c) "Carries" means engages in the transmission of an electronic communication.
- (d) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication and the electronic address of the person.
- (e) "Conservatee" means an individual for whom a conservator has been appointed.
- (f) "Conservator" means a person appointed by a court pursuant to K.S.A. 59-3050 et seq., and amendments thereto, to manage the estate of a minor or adult individual. The term includes a temporary conservator.
- (g) "Content of an electronic communication" means information concerning the substance or meaning of the communication which:
 - (1) Has been sent or received by a user;
 - (2) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and
 - (3) is not readily accessible to the public.
- (h) "Court" means the district court.
- (i) "Custodian" means a person that carries, maintains, processes, receives or stores a digital asset of a user.
- (j) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.
- (k) "Digital asset" means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.
- (l) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- (m) "Electronic communication" has the meaning set forth in 18 U.S.C. § 2510(12).
- (n) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.
- (o) "Fiduciary" means an original, additional or successor personal representative, guardian, conservator, agent or trustee.
- (p) "Guardian" means a person appointed by the court pursuant to K.S.A. 59-3050 et seq., and amendments thereto, to make decisions regarding the support, care, education, health and welfare of a minor or adult individual. The term includes a temporary guardian but does not include a guardian ad litem.
- (q) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases or the like.
- (r) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.
- (s) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.
- (t) "Personal representative" means an executor, administrator, special administrator or person that performs substantially the same function under law of this state other than this act.
- (u) "Power of attorney" means a record that grants an agent authority to act on behalf of a principal.
- (v) "Principal" means an individual who grants authority to an agent in a power of attorney.
- (w) "Record" means information that is inscribed on a tangible medium or that is

stored in an electronic or other medium and is retrievable in perceivable form.

(x) "Remote computing service" means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

(y) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

(z) "Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(aa) "User" means a person that has an account with a custodian.

(bb) "Ward" means an individual for whom a guardian has been appointed.

(cc) "Will" includes a codicil, a testamentary instrument that only appoints an executor and an instrument that revokes or revises a testamentary instrument.

History: L. 2017, ch. 19, § 2; July 1.