

638.2 Definitions.

As used in [this chapter](#), unless the context otherwise requires:

1. “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.
2. “Agent” means an attorney in fact granted authority under a durable or nondurable power of attorney under [chapter 633B](#).
3. “Carries” means engages in the transmission of an electronic communication.
4. “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.
5. “Conservator” means the same as defined in [section 633.3](#). “Conservator” includes a person appointed to have the custody and control of the property of a ward in a limited conservatorship unless otherwise provided by order of the court.
6. “Content of an electronic communication” means information concerning the substance or meaning of the communication to which all of the following apply:
 - a. The communication has been sent or received by a user.
 - b. The communication 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.
 - c. The communication is not readily accessible to the public.
7. “Court” means a district court in this state.
8. “Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user.
9. “Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user.
10. “Digital asset” means an electronic record in which an individual has a right or interest. “Digital asset” does not include an underlying asset or liability unless the asset or liability is itself an electronic record. “Digital asset” does not include health information or individually identifiable health information as those terms are defined in the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
11. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
12. “Electronic communication” has the meaning set forth in 18 U.S.C. §2510(12).
13. “Electronic-communication service” means a custodian that provides to a user the ability to send or receive an electronic communication.
14. “Fiduciary” means a personal representative, conservator, guardian, agent, or trustee.
15. “Guardian” means the same as defined in [section 633.3](#). “Guardian” includes a person appointed to have the custody and care of the person of the ward in a limited guardianship unless otherwise provided by order of the court.
16. “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.
17. “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.
18. “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.
19. “Personal representative” means the same as defined in [section 633.3](#).
20. “Power of attorney” means the same as defined in [section 633B.102](#).
21. “Principal” means the same as defined in [section 633B.102](#).
22. “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.
23. “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).

24. “*Terms-of-service agreement*” means an agreement that controls the relationship between a user and a custodian.

25. “*Trustee*” means the same as defined in [section 633.3](#) or [633A.1102](#).

26. “*User*” means a person that has an account with a custodian.

27. “*Ward*” means an individual for whom a conservator or guardian has been appointed. “*Ward*” includes an individual for whom an application for the appointment of a conservator or guardian is pending and for which a court order authorizing access under [this chapter](#) has been granted.

28. “*Will*” means the same as defined in [section 633.3](#).

[2017 Acts, ch 79, §5](#)

NEW section