

**638.15 Fiduciary duty and authority.**

1. The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including all of the following:

- a. The duty of care.
- b. The duty of loyalty.
- c. The duty of confidentiality.

2. All of the following apply to a fiduciary's or a designated recipient's authority with respect to a digital asset of a user:

- a. Except as otherwise provided in [section 638.4](#), the fiduciary's or designated recipient's authority is subject to the applicable terms of service.
- b. The fiduciary's or designated recipient's authority is subject to other applicable law, including copyright law.
- c. In the case of a fiduciary, the fiduciary's authority is limited by the scope of the fiduciary's duties.
- d. The fiduciary's or designated recipient's authority shall not be used to impersonate the user.

3. A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

4. A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including [section 716.6B](#).

5. A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor possesses all of the following authority:

- a. Has the right to access the property and any digital asset stored in the property.
- b. Is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including [section 716.6B](#).

6. A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

7. A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by all of the following:

- a. If the user is deceased, a certified copy of the death certificate of the user.
- b. A certified copy of the letters of appointment of the personal representative, an original affidavit made pursuant to [section 633.356](#), a file-stamped copy of the court order authorizing the personal representative to administer the user's estate, power of attorney, or trust, including a certification of trust, giving the fiduciary authority over the account.
- c. If requested by the custodian, any of the following:
  - (1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account.
  - (2) Evidence linking the account to the user.
  - (3) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subparagraph (1).

[2017 Acts, ch 79, §18](#); [2024 Acts, ch 1009, §95](#)

Referred to in [§638.16](#)