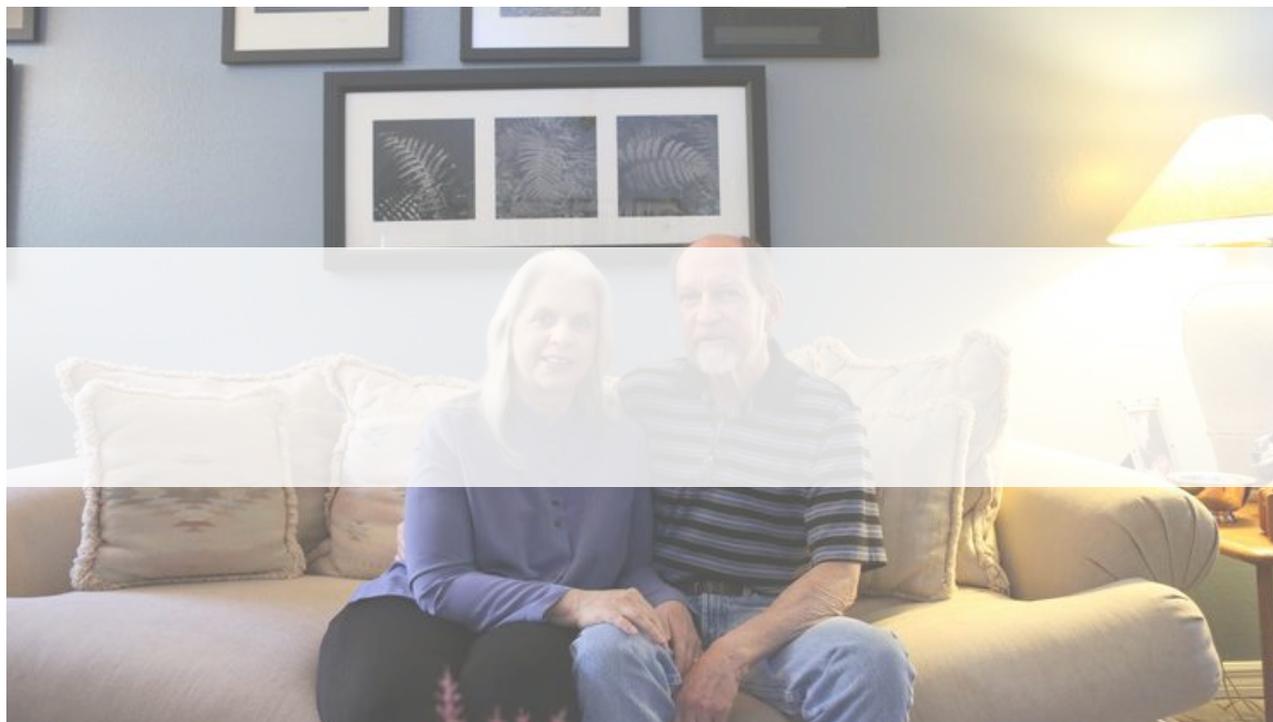


Florida lawmaker addresses digital life after death



A couple tell the Orlando Sentinel how they manage their passwords and other personal access on the internet.

By **Kate Santich**,
Orlando Sentinel

OCTOBER 25, 2014, 1:01 PM

With all that we do online these days — from social media to banking to storing photos and running a business — there is growing concern over what happens to those "digital assets" after we die.

Experts say many people haven't even considered the issue, let alone made plans.

"Google and Facebook and Instagram have all developed policies, but they're all different," says Florida State Sen. Dorothy Hukill, R-Port Orange. "There's nothing standardized. And there's nothing in law that addresses it. If we don't address it soon, I see it exploding as a problem."

Hukill, an attorney specializing in probate and estate planning, says she will file legislation on the issue for the upcoming session. Though still researching the details, Hukill aims to make Florida one of the first states in the nation with a comprehensive law on the subject. Basically, her proposal would allow a designated fiduciary or personal representative access to the dearly departed's digital life.

Since 2005, eight states have passed legislation covering digital assets, but only one — Delaware — meets the standards recommended by a national organization of attorneys. Delaware's governor signed the bill in August, and Hukill wants Florida's law to be similarly worded.

At stake is much more than a collection of selfies. A 2014 poll found that 87 percent of American adults are now

online, including 88 percent of those ages 50 to 64. And absent a law, much of what happens in their digital afterlife — their PayPal accounts, for instance, or eBay-based business — is left to the discretion of website administrators.

"It's really only in the past 10 years that this has become complicated, and probably in the last five that it has become extremely complicated," says Josh Murdock, who teaches educational technology and social networking at Valencia College. "More people are seeing legal cases come up, in part because hardly anyone reads the 27-page terms-of-service agreements when they sign up for these sites."

In Minnesota, for instance, the parents of a 19-year-old university student who died last December went to court to get access to their son's digital data — including his phone, email and social-media accounts. They lost the case, but they've since launched a campaign to change Minnesota law.

Even people who do make provisions now — who specify their desires in a will, for instance, or leave their user names and passwords to a trusted loved one — can't count on having their wishes fulfilled, at least not legally.

Jacquelyn Lynn, an inspirational author and ghost writer from Winter Springs, does much of her work online, including running her own website. Last year she compiled a long list of accounts and passwords — probably more than 100, she estimates — then swapped lists with her husband, a professional photographer and videographer who also conducts much of his business online. They keep their respective lists on a password-protected online document and update them every six months.

But Hukill said the fine print of website-user agreements typically prohibits access to anyone except the original person, even if you have the password. And though she knew of no prosecution of well-intentioned, grieving family members, she said the day could come. After all, surviving relatives have been known to squabble over all manner of the deceased's belongings.

Fortunately, Lynn says, "We're one of those couples that share everything," such as online banking accounts, "because he handles all the bills. And if anything happened to him, the first thing I'd have to do is get online and get a handle on what bills are due. I'd have to make sure the utilities don't get turned off."

A growing number of commercial services have sprouted in recent years to offer some measure of protection, but Murdock says those can be problematic, too.

"What happens if the service closes or is bought by another company?" he says. "What if you stop paying your monthly fee? And given how much technology itself is changing, I'd want to take a very close look at what the provider guarantees."

Murdock agrees a law is a step in the right direction, but he says it won't be a cure-all. For one thing, it requires the person to have left a will or other final instructions, which many people don't do until later in life.

"It's definitely something you need to think about," he said. "But the generation that is the most active in these areas just isn't worrying about wills and estate planning."

ksantich@tribpub.com or 407-420-5503