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**Civil Rights & Judiciary Committee**

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**HB 1150**

**Brief Description:** Concerning compliance requirements of the revised uniform fiduciary access to digital assets act.

**Sponsors:** Representative Reeves.

**Brief Summary of Bill**

- Provides a remedy to fiduciaries or designated representatives when a custodian has not complied with disclosure requests.

**Hearing Date:** 1/23/19

**Staff:** Ingrid Lewis (786-7289).

**Background:**

The Revised Uniform Fiduciary Access to Digital Assets Act (Act) is a uniform law adopted by the National Conference of Commissioners on the Uniform Law Commission (ULC) in 2015. Washington adopted the Act in 2016, with some modifications, to provide fiduciaries with a legal path to managing the digital assets of deceased or incapacitated persons. Washington's Act gives specified fiduciaries the legal authority to access and manage a deceased or incapacitated person's digital assets, similar to the management of tangible assets and financial accounts, and provides custodians of digital assets the legal authority to disclose digital asset information when requested by a fiduciary who needs access to the information to fulfill their fiduciary duties.

"Digital assets" are electronic records in which an individual has a right or interest, but does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

A "fiduciary" is a person with the legal authority to manage another person's property or affairs. Fiduciaries can be personal representatives; trustees; agents under a power of attorney; and guardians.

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A "custodian" is a person that carries, maintains, processes, receives, or stores a digital asset of a "user," who is a person that has an account with a custodian under a terms-of-service agreement.

State law outlines the standards for the disclosure of digital assets to fiduciaries, as well as the different requirements for disclosure that apply based on the type of fiduciary involved. A custodian must comply with a request from a fiduciary or designated recipient to disclose digital assets or terminate an account no later than 60 days after receipt of the request. A fiduciary or designated recipient may request a court order compelling access if disclosure is not granted. The order must contain a finding that compliance is not in violation of federal law governing privacy of electronic communications.

**Summary of Bill:**

A fiduciary or designated representative who seeks a court order following a custodian's noncompliance with a disclosure request must be awarded reasonable attorneys' fees and court costs if a court finds that a custodian failed to comply with the disclosure requirement within the timeframe as outlined in statute. The court may also impose a penalty for failure to comply with the disclosure requirement. The penalty for failure to disclose within 60 days after the receipt of a valid request is \$10,000; failure to comply within 90 days is \$25,000.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.