

§ 36F-7. Disclosure of content of electronic communications of deceased user.

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian all of the following:

- (1) A written request for disclosure in physical or electronic form.
- (2) A certified copy of the death certificate of the user.
- (3) A certified copy of letters of administration or letters testamentary of the personal representative, a certified copy of a small estate affidavit filed in accordance with G.S. 28A-25-1(b), a certified copy of a summary administration order described in G.S. 28A-28-3, or a court order.
- (4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications.
- (5) If requested by the custodian, any of the following:
 - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account.
 - b. Evidence linking the account to the user.
 - c. A finding by the court of any of the following:
 1. That the user had a specific account with the custodian, identifiable by the information specified in sub-subdivision a. of this subdivision.
 2. That disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701, et seq., 47 U.S.C. § 222, or other applicable law.
 3. That, unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications.
 4. That disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate. (2016-53, s. 1.)