



**Thursday, September 29, 2016 10:00 a.m.**  
**House Room C, General Assembly Building**  
**Teleconference Site: 902 Patrick Henry Drive, Blacksburg, VA**

The Joint Commission on Technology and Science (JCOTS) held its second meeting of the 2016 interim on Thursday, September 29, 2016. Delegate Rich Anderson, chairman of JCOTS, called the meeting to order and welcomed Senator Siobhan Dunnivant, who was recently appointed to JCOTS.

The meeting opened with a series of presentations related to the Revised Uniform Fiduciary Access to Digital Assets Act (UFADAA). The Uniform Laws Commission originally adopted UFADAA in 2014 to address access to digital assets such as email, online photos or music, or other digital accounts. The uniform law would have created a presumption to access by a deceased person's personal representative, as well as by a person's guardian or custodian in certain circumstances. Access would have been provided not only to the record of a digital communication (i.e., the "envelope" or the to/from field of an email), but also to the content of the communication. The uniform act was subject to great opposition from privacy advocates and the technology community, and concerns were raised about a potential conflict with the federal Electronic Communications Privacy Act (ECPA).

In response to these concerns, Virginia adopted the Privacy Expectation Afterlife and Choices Act (§ 64.2-109 et seq. of the Code of Virginia) (PEAC) in 2015. This act was much more limited in scope, applied only to personal representatives of deceased persons, and created a process whereby a personal representative could petition a court for access to the records of electronic communications if certain criteria were met.

However, due to the concerns raised regarding the original UFADAA, the Uniform Law Commission revised UFADAA in 2016. The Uniform Laws Commission worked closely with the technology community and addressed concerns raised about privacy and interaction with the ECPA. Groups that opposed UFADAA originally in Virginia now would support repealing PEAC and adopting in its place the Revised UFADAA. Members of JCOTS were provided with a copy of the Revised UFADAA, along with other supporting documentation, including what a bill in Virginia would look like. The chief counsel of the Uniform Law Commission briefed JCOTS on the Revised UFADAA, and a representative of AOL, Inc., provided supporting comments. A copy of all of the materials related to UFADAA is available on the JCOTS website.

Delegate Anderson suggested that members take the time to review the Revised UFADAA materials between now and the December JCOTS meeting, and he indicated

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that he would ask the members at that time if they wished to endorse the repeal of PEAC and the adoption of the Revised UFADAA by the 2017 Session of the General Assembly.

Next, staff provided a brief update on the study of SB 531 (Surovell), related to digital authentication of public records, which was referred to JCOTS for study by the 2016 Session of the General Assembly. A staff work group meeting was held in August to discuss issues raised by the bill. Senator Surovell indicated that his intent was not to require authentication of all public records, but instead to have a process in place that would allow a clerk of court to digitally authenticate an electronic record created by a state or local entity and entered into evidence. Staff was directed to review the approaches of other states, and staff is currently working with Senator Surovell to generate a bill to be circulated among the work group members.

Finally, staff provided an update on the aviation and aerospace study currently underway, as directed by HJ 97 (Yancey) and SJ 97 (Newman) by the 2016 Session of the General Assembly. The study resolution contains several elements, and staff provided a brief update on the work done to date on each element. A copy of the PowerPoint summarizing the work to date is available on the JCOTS website. Senator John Cosgrove noted that the breadth of the study is quite large and that one interim is likely not sufficient to complete all of the work. He suggested that the report that is presented this year will likely need to recommend further study on a number of issues identified related to aviation and aerospace.

Delegate Anderson called for public comment. Guy Rohling, representing Google, advised JCOTS of the recently announced unmanned system pilot program being conducted at Virginia Tech. "Project Wing" will allow for delivery of Chipotle burritos in a closed site at Virginia Tech. Members of JCOTS requested a follow-up briefing on the program. Patrick Cushing with Williams Mullen advised JCOTS of the launch of the newly created Unmanned Systems Association of Virginia, a private organization focusing on land, air, and sea unmanned systems. He said that the association was launched as a recommendation of the Governor's Unmanned Systems Commission.

The meeting was adjourned. The next JCOTS meeting will be on Monday, December 12, at 10:00 a.m. in House Room C.

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