[recovered from the vector store — section14.html p.1]

Section 14 DPDPA

Right to nominate.

14.(1) A Data Principal shall have the right to nominate, in such manner as may be prescribed, any other individual, who shall, in the event of death or incapacity of the Data Principal, exercise the rights of the Data Principal in accordance with the provisions of this Act and the rules made thereunder.

(2) For the purposes of this section, the expression “incapacity” means inability to exercise the rights of the Data Principal under the provisions of this Act or the rules made thereunder due to unsoundness of mind or infirmity of body.

Applicable DPDP Rule 2025

Rule 13: Rights of Data Principals

← Section 13 DPDPA

Section 15 DPDPA →

DPDPA
Table of contents

Comprehensive Legal Interpretation of Section 14 of the Digital Personal Data Protection Act, 2023

"In death, we leave behind our data. In nomination, we control its destiny." - Digital Age Proverb
Section 14 - Right to Nominate

Statutory Text

Section 14. An individual Data Principal may nominate, in such manner as may be prescribed, any other individual who shall, in the event of death or incapacity of the Data Principal, exercise the rights of such Data Principal under this Act.

Applicable DPDP Rules 2025:

Rule 13: Rights of Data Principals (nomination procedures)

Table of Contents

What is "Incapacity"?

Nominee's Rights & Limitations

Practical Guidance

Comparative Analysis: Digital Succession Laws Globally

1. Executive Summary: Digital Succession

Section 14 is the DPDPA's "digital will" provision - allowing you to decide WHO controls your da

[recovered from the vector store — section14.html p.2]

ta after death or incapacity.

� The Digital Afterlife Problem

Traditional Law:

When you die:

Your physical property → goes to heirs (succession law)

Your debts → settled by estate

Your contracts → may terminate or transfer

But what about your DATA?

Pre-DPDPA Chaos:

Email accounts → locked forever (provider won't give access)

Social media → remains active (creepy "digital ghost")

Photos in cloud → inaccessible to family

Financial data → heirs can't access for estate settlement

No legal mechanism for family to exercise deceased's rights
Section 14 Solution:

You NOMINATE someone (like a will). If you die or become incapacitated, your nominee can:

� Request access to your data (Section 11)

� Request correction (Section 12)

� Request erasure (Section 12)

� Withdraw your consents

� File grievances on your behalf (Section 13)

This is revolutionary - extending data rights beyond death.
1.1 Who Can Nominate?

Eligible: Any individual Data Principal

Not Eligible:

� Companies (Section 14 says "individual Data Principal")

� Minors (capacity issue - nomination is like will-making)

� Persons already incapacitated (cannot nominate if already incapacitated)

1.2 Who Can Be Nominated?

Eligible: "any other individual"

This means:

� Family members (spouse, children, parents, siblings)

▯ Friends

▯ Lawyer/advocate

▯ Professional executor

▯ ANY individual you trust

Not Eligible:

▯ Companies or organizations

▯ Minors (should be adult to exercise rights)

▯ Multiple nominees jointly (statute says "any other individual" - singular)

1.3 When Does Nomination Activate?

Two Triggers:

Death: Upon your death, nominee can immediately exercise rights

Incapacity: If you become incapacitated (unable to make decisions), nominee can exercise rights

▯ Timeline Example

Scenario: Sudden Death

Day 0: Person dies in accident

Day 1: Nominee informed by family

Day 7: Nominee obtains death certificate

Day 10: Nominee contacts Data Fiduciaries with death certificate

[recovered from the vector store — section14.html p.3]

+ nomination proof

Day 15: Data Fiduciaries verify nominee's authority

Day 20: Nominee exercises rights (access, erasure, etc.)

Key Point: Nomination provides LEGAL AUTHORITY for nominee to act on behalf of deceased.

2. Philosophical Foundations: Death & Digital Identity

2.1 Posthumous Rights Theory

Ancient Philosophical Question: Can dead people have rights?

Traditional View (Epicurus): "Death is nothing to us. When we exist, death is not; and when death exists, we are not." Rights end at death because legal personality ceases.

Modern View (Joel Feinberg, "The Rights of Animals and Unborn Generations"):

Some interests survive death and deserve protection:

Reputation: Defamation of deceased is still actionable (their reputation lives on)

Intellectual Property: Copyrights last 60 years after author's death in India

Bodily Integrity: Respect for corpse (desecration of dead body is crime under IPC Section 297)

Testamentary Wishes: Wills are executed posthumously (dead person's wishes control property distribution)

Organ Donation: Person's pre-death consent for organ donation is respected
Section 14 extends this to DATA - your data rights can be exercised by nominee after death, recognizing that your digital identity and interests survive your biological death.

2.2 Viktor Mayer-Schönberger: "Delete" (2009)

Key Argument: Digital permanence creates problems:

Information never forgets, unlike human memory

Past defines present indefinitely

No "fresh start" possible

Section 14 Solution: Nominee can request erasure of deceased's data, allowing digital death to match biological death.

2.3 Luciano Floridi: "The Fourth Revolution" (2014)

Concept: We live "onlife" - online and offline are inseparable. Our digital identity is as real as physical identity.

Implication: If digital identity is real identity, then digital succession is as important as property succession.

Section 14 recognizes digital identity as part of personhood that requires succession pl

[recovered from the vector store — section14.html p.4]

3. Constitutional Framework: Succession Rights

3.1 Article 300A: Right to Property

Article 300A: "No person shall be deprived of his property save by authority of law."

Data as Property?

While Indian law hasn't definitively classified personal data as "property," data has:

Economic value: Companies pay for data

Excludability: You can exclude others from accessing it

Transferability: You can grant access rights

Section 14 treats data as a succession-worthy asset, similar to other property that passes through nomination.

3.2 Hindu Succession Act, 1956 - Parallel

Traditional succession law allows nomination for various assets:

Bank Accounts: Nominee receives proceeds (Section 45ZA, Banking Regulation Act)

Shares/Securities: Nominee can claim (Section 109A, Companies Act)

Insurance Policies: Nominee receives benefits (Section 39, Insurance Act)

Provident Fund: Nominee gets accumulated amount (Employees' Provident Funds Act)
Section 14 extends nomination to data assets - creating digital equivalent of financial nomination.

3.3 Indian Succession Act, 1925

Testamentary Capacity: Person making will must be of sound mind and not a minor.

Similar Requirement for Section 14: Person making nomination should be adult and capable (though not explicitly stated in DPDPA, implied from general capacity principles).

4. The Nomination Process

� How to Nominate (Step-by-Step)

Step 1: Decide on Nominee

Choose someone you trust completely

Should be adult and capable

Consider longevity (ideally someone younger than you)

Consider technical literacy (can they navigate digital platforms?)

Discuss with them - they should agree to be nominee

Step 2: Prepare Nomination Form

Required Information:

Your full name, date of birth, address

Your identification (Aadhaar/PAN/Passport number)

Nominee's full name, date of birth, address

Nominee's identification

Relationship to nominee

Date of nomination

Your signature + nominee's acceptance signature

Optional: W

[recovered from the vector store — section14.html p.5]

itness signatures (recommended for added authenticity)

Option A (Current): File nomination with EACH Data Fiduciary individually

Email scanned copy to each service provider

Option B (Future): Centralized Nomination Registry

File once, applies to all Data Fiduciaries

Similar to EPF/Insurance nomination systems

Store digital copy in accessible location

Inform close family members where nomination is stored

Nominee dies/becomes incapacitated → update immediately

Relationship changes (divorce, estrangement) → update immediately

Provide list of your important accounts/data assets

Explain your wishes (e.g., "delete my social media," "preserve family photos")

Give them contact info for Data Fiduciaries

NOMINATION UNDER SECTION 14
DIGITAL PERSONAL DATA PROTECTION ACT, 2023

PART A: NOMINATOR DETAILS (Data Principal)
Full Name: | ________________________________
Father's/Mother's Name: | ________________________________
Date of Birth: | _____ / _____ / ________
Gender: | ________________________________
Residential Address: | ________________________________ ________________________________ PIN: _____________
Email: | ________________________________
Phone: | ________________________________
Aadhaar Number: | ____ ____ ____ (last 4 digits)
PAN/Passport: | ________________________________

Full Name: | ________________________________
Father's/Mother's Name: | ________________________________
Date of Birth: | _____ / _____

[recovered from the vector store — section14.html p.6]

/ _________
Relationship to Nominator: | ________________________________
Residential Address: | ________________________________ ________________________________ PIN: _____________
Email: | ________________________________
Phone: | ________________________________
Aadhaar Number: | ____ ____ ____ (last 4 digits)
PAN/Passport: | ________________________________

I, [Nominator Name], being of sound mind and under no undue influence, hereby nominate [Nominee Name] to exercise all my rights under the Digital Personal Data Protection Act, 2023, in the event of my death or incapacity.

The nominee shall have the authority to:

Request access to my personal data from any Data Fiduciary (Section 11)

Request correction, completion, or updating of my personal data (Section 12)

Request erasure of my personal data (Section 12)

Withdraw any consents I have given for data processing

File grievances with Data Fiduciaries on my behalf (Section 13)

File complaints with the Data Protection Board of India on my behalf (Section 13)

Exercise any other rights available to me under the DPDPA 2023

☐ All Data Fiduciaries (universal nomination)

☐ Specific Data Fiduciaries only (list attached)
[Example: "Please delete all my social media accounts." / "Please preserve and share family photos with my children." / "Please ensure my financial data is accessible for estate settlement."]

Revocation Rights: I reserve the right to revoke, modify, or replace this nomination at any time by submitting a fresh nomination in writing to the concerned Data Fiduciaries.

Place: ________________________________

I, [Nominee Name], hereby accept the nomination made by [Nominator Name] and agree to exercise the data rights on their behalf in the event of their death or

[recovered from the vector store — section14.html p.7]

incapacity. I understand that I must act in the best interests of the nominator and will handle their personal data with utmost care and confidentiality.

Date: _____ / _____ / ________

Place: ________________________________

Signature of Nominee:

____

[Nominee Name]

PART E: WITNESSES (OPTIONAL BUT RECOMMENDED)

Witness 1:

Name: | ________________________________
Address: | ________________________________
Signature: | ________________________________
Date: | _____ / _____ / ________

Witness 2:

Name: | ________________________________
Address: | ________________________________
Signature: | ________________________________
Date: | _____ / _____ / ________

� IMPORTANT NOTES:

1. This nomination is valid only for rights under DPDPA 2023. For financial assets, separate nominations are required.

2. Keep this document in a safe place and inform your family members of its location.

3. Provide a copy to your nominee and keep a digital backup.

4. Submit copies to all relevant Data Fiduciaries (email, social media, cloud storage, etc.).

5. Review and update this nomination every 3-5 years or whenever circumstances change.
6. In case of multiple nominations (old and new), the latest dated nomination will prevail.

Section 14 says: "...in the event of death or incapacity..."

Death is straightforward. But what constitutes "incapacity"?

5.1 Legal Definition of Incapacity

Incapacity = Inability to make rational decisions or exercise legal rights due to mental or physical condition.

Situation | Counts as Incapacity? | Evidence Required
Coma/Unconscious State | � YES | Medical certificate from treating doctor
Advanced Dementia/Alzheimer's | � YES | Medical + psychiatric evaluation showing inability to make decisions
Court Declaration of Unsound Mind | � YES | Court order under Mental Healthcare Act, 2017
Severe Stroke (affecting cognition) | � YES | Medical certificate + neurologist opinion
Persistent

[recovered from the vector store — section14.html p.8]

Vegetative State | ? YES | Medical certificate
Severe Mental Illness (schizophrenia, psychosis) | ? YES (if affecting capacity) | Psychiatric evaluation certifying inability to make decisions
Temporary Hospitalization | ? NO | Not permanent incapacity - person will recover
Intoxication (temporary) | ? NO | Temporary condition, not legal incapacity
Old Age (without cognitive impairment) | ? NO | Age alone is not incapacity
Physical Disability (paralysis, blindness) | ? NO (usually) | Physical disability ≠ mental incapacity (unless accompanied by cognitive impairment)
Disagreement with Family | ? NO | Personal conflict is not legal incapacity

5.2 Standard for Determining Incapacity

Test: Can the person understand the nature and consequences of exercising data rights?

Similar to testamentary capacity (will-making capacity):

Understand what data rights are

Understand what exercising them means

Make rational decisions about data

Communicate those decisions

If answer is NO to above, person is incapacitated.

6. Nominee's Rights & Limitations

6.1 What Nominee CAN Do

? Nominee's Authorized Actions

1. Exercise ALL Data Principal Rights (Sections 11-13)
Section 11: Request access to deceased/incapacitated person's data

Section 12(2): Request correction, completion, updating of data

Section 13: File grievances with Data Fiduciaries

Section 13(2): File complaints with Data Protection Board

2. Withdraw Consents

Revoke consents given by deceased/incapacitated person

Stop ongoing data processing

3. Access Digital Assets for Estate Settlement

Access financial records (bank statements, investment records)

Access business communications (emails related to business)

Access documents needed for legal/tax purposes

4. Preserve Family Memories

Download family photos from cloud storage

Archive personal videos

Preserve meaningful digital content

5. Close Digital Accounts

Request account closures (social media, email, subsc

[recovered from the vector store — section14.html p.9]

riptions)

Terminate ongoing services

Cancel subscriptions

6.2 What Nominee CANNOT Do

� Nominee's Prohibited Actions

1. Give NEW Consents

� Nominee cannot authorize NEW data processing

� Can only exercise EXISTING rights, not create new ones

Rationale: Nomination is for managing existing data relationships, not creating new ones

2. Nominate a Successor

� Nominee cannot nominate their own successor

Rationale: Nomination is personal, doesn't cascade

3. Use Data for Personal Benefit

� Cannot sell deceased's data for profit

� Cannot use data for own business purposes

� Cannot commercially exploit data

Rationale: Nominee is fiduciary, must act in deceased's interests

4. Publicly Disclose Private Information

� Cannot publish deceased's intimate data

� Cannot share embarrassing information publicly

� Cannot violate deceased's dignity

Rationale: Privacy and dignity survive death
5. Destroy Evidence of Crimes

� Cannot use erasure right to destroy evidence

� Cannot obstruct ongoing investigations

Rationale: Section 15(a) - must comply with other laws

6.3 Nominee's Fiduciary Duty

Key Principle: Nominee is a FIDUCIARY - someone who holds a position of trust.

Fiduciary Duties:

Loyalty: Act in deceased/incapacitated person's best interests, not own interests

Good Faith: Exercise rights honestly and fairly

Prudence: Make careful, thoughtful decisions

Confidentiality: Maintain privacy of deceased's data

Respect: Honor deceased's wishes (if known)

?? Fiduciary Duty Examples

? Compliant Actions (Good Fiduciary)

Deleting embarrassing social media posts to protect deceased's reputation

Accessing email to find important documents for estate settlement

Downloading family photos to share with relatives

Closing dating app profile that's still active

Correcting wrong information that damages deceased's reputation

? Fiduciary Duty Violations (Bad Fiduciary)

Accessing deceased's private messages out of curiosity

Selling deceased's contact list to mark

[recovered from the vector store — section14.html p.10]

eting companies

Publishing deceased's private diary on social media

Using deceased's research data for own academic publication without attribution

Blackmailing deceased's associates with accessed information

Remedy if Nominee Abuses Power:

Family members can petition court to remove nominee

Court can appoint different person as digital estate administrator

Nominee may face civil liability for damages

Criminal charges possible (privacy violations, extortion, fraud)
Practical Guidance

7.1 Choosing the Right Nominee

▯ Selection Criteria

MUST-HAVE Qualities:

Trustworthiness: Will they respect your privacy and honor your wishes?

Integrity: Will they use power responsibly, not for personal gain?

Availability: Will they be reachable when needed?

Willingness: Are they willing to take on this responsibility?

DESIRABLE Qualities:

Technical Competence: Can they navigate digital platforms and understand data issues?

Good Judgment: Will they make wise decisions about your data?

Longevity: Likely to outlive you?

Understanding of Your Values: Know what you would have wanted?

Common Nominees by Relationship:

Spouse (Most Common): Knows you best, has legitimate interest in estate matters

Adult Children: Technologically savvy, will handle with care

Trusted Sibling: Close relationship, understands family dynamics

Close Friend: May understand your values better than family in some cases

Professional (Lawyer/CA): Objective, experienced in estate matters, but may lack personal connection

RED FLAGS (Avoid These Nominees):

▯ Someone you don't fully trust

▯ Someone with conflicts of interest (business rivals, estranged family)

▯ Someone completely tech-illiterate (if you have complex digital estate)

- Someone much older than you (may predecease you)
- Someone already incapacitated or in poor health
- Someone with history of poor judgment or unethical behavior
- Minor children (they'll be adults when you die, but can't nominate minors)

7.2 Real-World S

[recovered from the vector store — section14.html p.11]

Facts: 35-year-old professional dies in car accident. Had nominated spouse.

Accessed email to find insurance policies, business contacts

Downloaded family photos from Google Photos for preservation

Closed Facebook account (was getting "birthday reminder" messages - emotionally painful for family)

Deleted dating app profile (deceased had been using before marriage)

Kept LinkedIn active as memorial/professional legacy

Outcome: ? Smooth digital estate settlement, family preserved memories, professional legacy maintained

Scenario 2: Terminal Cancer with Advance Planning

Facts: 60-year-old diagnosed with terminal cancer. Nominated adult daughter. Created detailed instructions.

Created list of all accounts with login info (stored in password manager)

Specified which accounts to close, which to preserve

Identified important documents in cloud storage

Wrote "digital will" with specific wishes

Preserved blog as memorial (father was writer)

Downloaded 20 years of family photos, created physical albums

Shared specific files with other family members as instructed

Outcome: ? Ideal scenario - clear wishes followed, no disputes, meaningful digital legacy preserved
Scenario 3: Alzheimer's Disease (Incapacity)

Facts: 70-year-old develops advanced dementia. Cannot manage digital affairs. Nominated son years earlier.

Nominee Actions (While Father Still Alive):

Used nomination to access father's accounts

Prevented father from online shopping (was ordering random items, forgetting)

Monitored email to prevent scams targeting vulnerable elderly

Maintained father's pension and banking data for financial management

Coordinated with guardian appointed by court for overall care

Outcome: ? Protected vulnerable person from online exploitation, maintained dignity

[recovered from the vector store — section14.html p.12]

Facts: 45-year-old dies suddenly. Never nominated anyone.

? Cannot access Gmail - has important business emails, contacts

? Cannot access Apple iCloud - has 15 years of family photos FOREVER LOST

? Facebook account remains active - friends keep posting "Happy Birthday," causing pain

? Dropbox with important documents - inaccessible

? Cryptocurrency wallet - no recovery possible, ₹10 lakhs LOST

? LinkedIn account shows "active" status - professionally confusing

Contacted Google - refused access even with death certificate (privacy policy)

Contacted Apple - refused access (privacy policy)

Hired lawyer - expensive, time-consuming, ultimately unsuccessful

Outcome: ? Digital estate PERMANENTLY LOCKED. Irreplaceable memories LOST. Financial losses. Emotional distress for family. All preventable with nomination.

LESSON: ALWAYS NOMINATE. DON'T BECOME SCENARIO 4.

? Create nomination form (use template above)

? Submit nomination to all major Data Fiduciaries (Google, Facebook, Microsoft, Apple, banks, etc.)

? Create inventory of digital assets (accounts, data, passwords)

? Use password manager (1Password, Bitwarden, LastPass) with emergency access feature
? Give nominee copy of nomination + asset inventory

? Write "digital will" - specific instructions for nominee

? Organize important documents in accessible cloud location

? Label photos, files with context (future-proof memories)

? Consider creating "legacy contacts" on platforms that offer it (Facebook, Google)

? Review nomination every year (nominee still appropriate?)

? Update asset inventory when opening new accounts

[recovered from the vector store — section14.html p.13]

ormation still current

? Check if new platforms allow nomination submission

AFTER MAJOR LIFE EVENTS:

? Marriage/Divorce - update nomination

? Birth of children - consider changing nominee

? Nominee's death - immediately nominate someone else

? Falling out with nominee - update immediately

? Nominee moves abroad - consider if still practical
8. Comparative Analysis: Digital Succession Laws Globally

Jurisdiction	Legal Framework	Key Features
India (DPDPA)	Section 14 - Right to Nominate	• Nomination mechanism • Applies on death or incapacity • All data rights transferable • Nominee acts as fiduciary
USA (UFADAA)	Uniform Fiduciary Access to Digital Assets Act (2015)	• Adopted by 40+ states • Executor/trustee can access digital assets • User can specify access level in will/online tool • Three-tier: Full access, partial access, no access
EU (GDPR)	No specific provision; member state laws vary	• Germany: Heirs inherit social media accounts (BGH 2018) • France: User can specify data fate after death • Inconsistent across EU
UK	No specific law; common law principles	• Executor handles digital assets as part of estate • Platform terms of service determine access • Campaigns for clearer legal framework ongoing
Australia	State-based laws; no federal framework	• NSW: Trustee can access if authorized in will • VIC: Similar provisions • Depends on platform cooperation
Canada	Provincial laws; varies by province	• BC: Representative can access with court order • ON: Similar provisions • No uniform approach

India's Approach (Section 14) Strengths:

? Clear statutory right (not dependent on platform policies)

? Nomination system (proactive, like financial assets)

? Covers incapacity (not just death)

? Simple mechanism (nominate any individual)

Areas for Improvement (Compared to UFADAA):

?? No central registry (must nominate with each Fiduciary separately)

?? No tiered access (nominee gets full rights - UFADAA allows partial access)

?? No ex

[recovered from the vector store — section14.html p.14]

plicit integration with succession law (could clarify relationship with will/probate)

9. Conclusion: Control Your Digital Afterlife

Section 14 is a forward-thinking provision that recognizes a fundamental 21st-century truth: Our digital lives are as important as our physical lives, and deserve the same succession planning.

"We are the first generation that will die with a substantial digital footprint. Section 14 ensures that footprint doesn't become a permanent, unmanageable ghost."

Key Takeaways:

NOMINATE NOW: Don't wait. Scenario 4 (no nomination) is a cautionary tale of permanent loss.

CHOOSE WISELY: Pick someone trustworthy, capable, and willing. This is as important as choosing an executor for your will.

DOCUMENT WISHES: Don't just nominate - tell nominee what you want done with your data.

UPDATE REGULARLY: Life changes (marriage, divorce, births, deaths). Keep nomination current.

INFORM FAMILY: Tell loved ones about nomination so they can contact nominee when needed.

NOMINEE'S DUTY: If you're nominated, remember you're a FIDUCIARY. Act in deceased's best interests with integrity.

DIGITAL = REAL: Treat digital succession as seriously as physical property succession.
Section 14 gives you power over your digital afterlife. Use it wisely.

Comprehensive Legal Interpretation Complete

Section 14 DPDPA 2023 - Right to Nominate

� Digital succession framework explained

� Complete nomination form template

� Incapacity definitions & examples

� Nominee rights & limitations

� Fiduciary duties analyzed

� Real-world scenarios (4 case studies)

� Choosing right nominee guide

� Best practices checklist

� Global comparison (UFADAA, GDPR)

� Philosophical foundations

� Constitutional framework

International Data Protection Lawyer | Cyber Law Expert