Position of Digital Assets Under Civil Law in Relation to Joint Property in Marriage

Tis'a Nurfath Pagessa[1], Hamzah Halim[3]

[1]Master of Notary Studies Program, Postgraduate Program, Faculty of Law, Hasanuddin University, Makassar

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ABSTRACT:

This study examines the legal status of digital assets under Indonesian civil law in relation to marital joint property and analyzes whether digital assets acquired during marriage may be classified as jointly owned property. The research employs a normative legal research method using statutory, conceptual, and comparative approaches. Primary legal materials include the Indonesian Civil Code, the Marriage Law, the Compilation of Islamic Law, and regulations governing digital financial assets, supported by secondary legal literature and qualitative legal analysis.The findings demonstrate that digital assets possess the legal characteristics of intangible property because they have economic value, can be exclusively controlled, and are transferable. Accordingly, digital assets acquired during marriage may be recognized as marital joint property, while premarital digital assets remain separate property unless commingled with jointly owned assets. However, legal uncertainty persists regarding ownership verification, valuation, and distribution during divorce. Strengthening statutory regulation and judicial guidelines is necessary to ensure legal certainty, fairness, and effective legal protection in resolving disputes involving digital assets within Indonesia's marital property regime.

Keywords: Digital Assets; Civil Law; Marital Joint Property; Marriage Law; Indonesian Legal System.

Introduction.

The rapid advancement of information technology in the Society 5.0 era has fundamentally transformed the concept of property by expanding it beyond conventional tangible assets to include digital assets with measurable economic value (Harth et al., 2026; George & George, 2024; Özdilek, 2024). The widespread adoption of blockchain technology, cryptocurrencies, Non-Fungible Tokens (NFTs), digital wallets, and other electronically recorded assets has created new forms of wealth that can be owned, transferred, and traded (Bamakan et al., 2022; Razi et al., 2023; Ko et al., 2024; Bhujel & Rahulamathavan, 2022). As digital assets become increasingly integrated into modern economic activities, they challenge traditional legal concepts of ownership and property, requiring legal systems to adapt to technological developments.

Indonesia has experienced significant growth in the digital asset market, driven by increasing internet penetration, technological innovation, and broader public participation in digital financial activities. The government has recognized digital assets, particularly crypto assets, as tradable commodities under the commodity futures trading system. Furthermore, the enactment of Law Number 4 of 2023 concerning Financial Sector Development and Strengthening (P2SK Law) expanded the regulatory framework by granting the Financial

Services Authority (OJK) authority over digital financial innovation and consumer protection (Ilyas et al., 2025). Nevertheless, the existing regulatory framework primarily focuses on market supervision, investment, and consumer protection, while providing limited guidance regarding the civil law status of digital assets (Halim & Putera, 2013; Halim, 2009).

From a legal perspective, digital assets represent electronic records embodying proprietary rights or legally recognized interests that exist within digital systems, particularly blockchain networks. Although their existence is intangible, digital assets possess identifiable economic value, are capable of exclusive ownership, and may be transferred between parties. These characteristics distinguish digital assets as objects of proprietary rights rather than merely technological products. Consequently, digital assets inevitably fall within the scope of private law and require legal recognition comparable to other forms of intangible property (Hamzah Halim, 2016; Amiati et al., 2025).

Indonesian civil law provides a legal basis for recognizing intangible property through the concept of "objects" (benda) under Articles 499 and 503 of the Indonesian Civil Code (Kusuma et al., 2021; Sanjaya, 2026; Darmawan et al., 2025). These provisions broadly define property to include not only tangible goods but also rights capable of ownership and economic valuation. Since digital assets satisfy the essential characteristics of property by possessing economic value, exclusivity, and transferability, they may reasonably be classified as intangible movable property under civil law (Hung, 2024; Riabchenko et al., 2025; Calzolaio, 2023). This classification extends their legal relevance beyond commercial transactions to matters involving ownership, inheritance, contractual obligations, security interests, and marital property.

The legal implications become increasingly significant when digital assets are acquired during marriage. Article 35 of Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, establishes that all property acquired during marriage constitutes joint marital property, whereas premarital assets, gifts, and inheritances remain the separate property of each spouse. In principle, this provision may also encompass digital assets acquired during the marriage. However, the unique characteristics of digital assets raise complex legal questions regarding whether and how they should be classified, managed, and divided as part of marital joint property.

Popescu (2020) and Muradyan (2023) said that, unlike conventional assets, digital assets are decentralized, electronically stored, protected by cryptographic authentication, and capable of being transferred almost instantaneously across jurisdictions. These characteristics create substantial challenges in identifying ownership, tracing transactions, determining acquisition dates, valuing assets, and enforcing judicial decisions concerning their distribution. During divorce proceedings, digital assets may be concealed, transferred without the knowledge of the other spouse, or become difficult to verify due to their pseudonymous nature. Consequently, traditional rules governing the division of marital property may not adequately address disputes involving digital assets.

Judicial practice in Indonesia has yet to establish comprehensive legal principles governing digital assets as marital property. Although Supreme Court Decision No. 3512 K/Pdt/2018 demonstrates that ownership of intangible assets, such as shares, requires clear legal proof, similar principles have not been specifically developed for blockchain-based digital assets. Moreover, the emergence of crypto-related issues in Religious Court Decision No. 222/Pdt.G/2024/PA.Wt. illustrates that disputes involving digital assets have begun to appear in Indonesian courts. Nevertheless, no Supreme Court precedent has specifically addressed the legal classification or distribution of digital assets as joint marital property.

Lestari (2025) said that, the absence of explicit statutory provisions and judicial guidance has created a legal vacuum (rechtsvacuum) regarding the civil law status of digital assets within Indonesia's marital property regime. Existing

legislation governing digital assets primarily regulates financial markets and electronic transactions without addressing their treatment as jointly owned property during marriage or divorce (Andina et al., 2026; Tang, 2022). This regulatory gap generates legal uncertainty concerning ownership rights, evidentiary standards, asset valuation, distribution mechanisms, and the incorporation of digital assets into marital agreements. Therefore, an adaptive legal framework is necessary to harmonize civil law principles with the realities of digital property ownership.

Against this background, this study examines the legal status of digital assets under Indonesian civil law in relation to marital joint property. Specifically, it analyzes whether digital assets satisfy the legal requirements to be classified as joint marital property under the Indonesian Civil Code and the Marriage Law, while also exploring the legal implications of their ownership and distribution upon marital dissolution. The findings are expected to contribute to the development of Indonesian civil law by providing a conceptual framework capable of ensuring legal certainty, fairness, and effective legal protection for spouses in the rapidly evolving digital economy.

Methods

Research Design

This study employs normative legal research to examine the legal status of digital assets under Indonesian civil law in relation to marital joint property. Normative legal research is appropriate because the study focuses on analyzing legal norms, statutory provisions, legal doctrines, and judicial interpretations rather than empirical social phenomena.

The research aims to identify, interpret, and systematically evaluate the legal framework governing digital assets and their classification as marital property. Through this approach, the study seeks to assess the adequacy of existing legal provisions in addressing legal issues arising from the ownership and distribution of digital assets acquired during marriage.

Research Approaches

The research applies three complementary legal approaches. First, the statutory approach is used to examine legislation governing civil law, marriage law, electronic transactions, digital financial assets, and related regulatory frameworks in Indonesia. This approach facilitates a comprehensive analysis of the interaction between various legal instruments relevant to digital asset ownership and marital property.

Second, the conceptual approach is employed to analyze legal theories and doctrines concerning property rights, intangible assets, ownership, and marital joint property. This approach provides a theoretical foundation for determining whether digital assets satisfy the legal characteristics of property under Indonesian civil law. Third, the comparative approach is utilized to compare Indonesia's legal framework with selected foreign legal systems and international legal principles concerning the recognition and regulation of digital assets. This comparison enables the identification of best practices and potential legal reforms applicable to the Indonesian legal system.

Legal Materials

The study relies on primary, secondary, and tertiary legal materials. Primary legal materials consist of authoritative legal sources, including the Indonesian Civil Code (Burgerlijk Wetboek), Law Number 1 of 1974 on Marriage as amended by Law Number 16 of 2019, Law Number 1 of 2024 concerning Electronic Information and Transactions, Law Number 4 of 2023 concerning Financial Sector Development and Strengthening, Government Regulation Number 71 of 2019 concerning the Operation of Electronic Systems and Transactions, Financial Services Authority Regulation Number 23 of 2025 concerning Digital Financial Asset Trading, and BAPPEBTI Regulation Number 9 of 2024 concerning Crypto Asset Trading.

Secondary legal materials include scholarly books, peer-reviewed journal articles, legal commentaries, conference papers, and previous studies discussing digital assets, property law,

blockchain technology, marital property, and civil law. Relevant international legal instruments and comparative legal literature are also examined to enrich the legal analysis. Tertiary legal materials, including legal dictionaries, legal encyclopedias, and other reference works, are used to clarify legal terminology and support the interpretation of legal concepts throughout the study.

Data Collection

Legal materials are collected through an extensive library research method. This method involves a systematic review of legislation, judicial decisions, academic publications, legal databases, and other authoritative legal documents relevant to digital assets and marital property. The literature review enables the identification of existing legal principles, scholarly debates, and regulatory developments concerning the civil law status of digital assets. Documentary analysis is further employed to examine legal texts and judicial decisions that contribute to understanding the legal treatment of intangible assets within the Indonesian legal system.

Legal Analysis

The collected legal materials are analyzed qualitatively using descriptive and prescriptive legal analysis. The analysis begins by identifying and interpreting relevant statutory provisions and legal doctrines, followed by examining their interrelationship within the broader framework of Indonesian civil law. A deductive reasoning method is applied by deriving conclusions from general legal principles governing property rights and marital property to the specific issue of digital assets.

The analysis also incorporates conceptual interpretation and comparative evaluation to assess the extent to which existing legal norms provide legal certainty regarding the classification and distribution of digital assets as marital joint property. The findings are subsequently synthesized to formulate legal arguments and recommendations for strengthening the regulation of digital assets within Indonesia's civil law system

Results

Law on Marriage

The Indonesian Civil Code does not limit the concept of property to tangible objects. Article 499 of the Civil Code defines property as every object and every right capable of ownership, indicating that legal recognition depends on economic value and legal control rather than physical existence. This broad definition provides a legal basis for recognizing digital assets as objects of civil law because they possess economic value, can be exclusively controlled through digital systems, and may be transferred or utilized for the benefit of their owners.

The concept of intangible property further reinforces the legal position of digital assets within Indonesian civil law. Property rights are not confined to physical objects but also encompass rights and interests with measurable economic value that can be legally controlled and protected. Consequently, digital assets, including cryptocurrencies, Non-Fungible Tokens (NFTs), digital accounts with economic value, and electronic wallet balances, satisfy the essential characteristics of intangible property and may therefore be regarded as civil law objects.

The findings indicate that the evolution of the digital economy requires a more adaptive interpretation of property law. Contemporary civil law increasingly recognizes that the distinction between tangible and intangible property should not determine legal protection. Instead, the decisive factors are whether an asset possesses economic value, is legally controllable, and is capable of being transferred or inherited. Under this functional approach, digital assets deserve the same legal recognition as other forms of intangible property.

From the perspective of Indonesian marriage law, Article 35 of Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, provides that all property acquired during marriage constitutes marital joint property, whereas premarital assets, gifts, and inheritances remain the separate property of each spouse. The statutory provision does not distinguish between tangible and intangible assets, suggesting that the

legal status of property depends primarily on the time of acquisition rather than its physical characteristics.

The interview findings support this interpretation by indicating that digital assets acquired during marriage may be classified as marital joint property, provided that they were obtained for the benefit of the marital partnership. Accordingly, digital assets should be treated in the same manner as other forms of property acquired during marriage, regardless of whether they exist in physical or digital form.

However, the classification of digital assets as joint property largely depends on the ability of the parties to establish ownership and the origin of acquisition. Digital assets owned before marriage remain the separate property of the respective spouse if their ownership history can be clearly demonstrated. Likewise, any increase in value derived from premarital digital assets cannot automatically be categorized as marital property unless it can be shown that such appreciation resulted from the use of joint marital assets or shared financial resources.

The analysis also demonstrates that the legal doctrine of intangible property strengthens the argument for recognizing digital assets within the civil law property regime. Rather than emphasizing physical existence, this doctrine focuses on legally protected rights and economic interests. Such an approach is consistent with contemporary developments in private law, where ownership is increasingly understood through the legal rights attached to an asset rather than its material form.

Consequently, digital assets that possess identifiable economic value and are capable of ownership, transfer, inheritance, or contractual disposition satisfy the legal elements of property under Indonesian civil law. Their legal classification therefore provides a sufficient foundation for including digital assets within the broader regime of marital property whenever they are acquired during the existence of a lawful marriage.

The findings further reveal that the principal criterion for determining whether digital assets constitute marital joint property is the timing and source of acquisition. Assets acquired during marriage are presumed to be jointly owned unless they originate from premarital property, inheritance, or gifts. This principle ensures consistency between the legal treatment of conventional assets and newly emerging forms of digital property.

Overall, the analysis confirms that existing provisions of the Indonesian Marriage Law are sufficiently broad to accommodate digital assets as part of marital joint property. Nevertheless, the absence of explicit statutory provisions regulating digital assets creates legal uncertainty regarding proof of ownership, asset valuation, and distribution in marital disputes. Therefore, a more comprehensive legal framework is necessary to provide greater legal certainty and ensure equitable protection for spouses in the context of the rapidly expanding digital economy.

Compilation of Islamic Law (KHI)

The concept of marital joint property under Islamic civil law in Indonesia recognizes that property acquired during marriage results from the mutual cooperation and shared responsibilities of both spouses, regardless of which party directly earns or acquires the property. This approach emphasizes the principles of justice ('adl) and public benefit (maslahah) within family life, whereby all assets obtained during the marriage, except premarital property, gifts, and inheritances, are regarded as jointly owned. Consequently, this normative understanding provides a legal basis for recognizing newly emerging forms of wealth, including digital assets, as marital joint property, provided that they possess economic value and are acquired during the marriage. Islamic civil law therefore places greater emphasis on the substance of ownership and the benefits derived from property than on its physical form or method of acquisition.

The regulation of marital property has long been recognized within Indonesia's legal framework through Chapter VII, Article 35 paragraphs (1) and (2) of Law Number 1 of 1974 on Marriage. These provisions establish that property acquired

during marriage constitutes marital joint property, while premarital assets remain under the ownership of each spouse. To provide legal certainty and protection in the management of marital property, Indonesian law allows spouses to conclude a marital agreement, which must be registered with the Office of Religious Affairs (KUA) for Muslim couples or the Civil Registry Office for non-Muslim couples. Such agreements serve as preventive legal instruments for regulating property rights, including modern forms of wealth such as digital assets. Furthermore, Constitutional Court Decision Number 69/PUU-XIII/2015 permits marital agreements to be executed even after the marriage has taken place, thereby providing greater flexibility in regulating marital assets and enhancing legal certainty regarding the ownership and distribution of digital assets.

The previous discussion on the legal characteristics of marital joint property is further supported by judicial practice concerning the division of marital assets following divorce. Although Article 97 of the Compilation of Islamic Law (Kompilasi Hukum Islam) generally provides for an equal division of marital property, court decisions do not always adhere to a strictly equal distribution. In practice, judges frequently adopt a contextual and progressive approach by considering the actual contributions of each spouse throughout the marriage, including both economic and non-economic contributions. Accordingly, justice in the distribution of marital property is understood not merely as mathematical equality but as proportional fairness that reflects the respective rights, obligations, and contributions of each spouse during the marriage. This approach is equally relevant to disputes involving digital assets, where the classification and distribution of such assets should take into account the factual circumstances surrounding their acquisition and use during the marital relationship.

Regulation of Separate Property

Article 35(1) of Law Number 1 of 1974 on Marriage establishes that property acquired during marriage constitutes marital joint property, indicating that the primary criterion for determining joint ownership is the time of acquisition rather than the nature or form of the property. Consequently, any asset obtained during a lawful marriage, including digital assets, may be classified as marital joint property unless it falls within the categories of separate property, gifts, or inheritance.

A systematic interpretation of this provision supports the view that every asset possessing economic value and acquired during marriage should be included within the marital property regime. This interpretation is consistent with the economic partnership theory, which regards marriage as a collaborative relationship in which both spouses contribute, directly or indirectly, to the accumulation of family wealth. Accordingly, digital assets such as cryptocurrencies, Non-Fungible Tokens (NFTs), and income-generating digital accounts cannot be excluded solely because they are intangible.

Interview findings indicate that Indonesian marriage law maintains the principle that property owned before marriage remains the separate property of each spouse. This principle applies equally to digital assets, provided that the ownership and acquisition of such assets before marriage can be clearly established. Therefore, digital assets acquired before marriage may legally retain their status as separate property.

However, the legal status of separate digital assets depends heavily on the availability of convincing evidence. The findings reveal that any increase in value (capital gain) derived from premarital digital assets does not automatically become marital joint property. Instead, the classification depends on whether the owner can demonstrate that the appreciation resulted exclusively from separate property without any contribution from jointly owned marital assets. Where such proof is insufficient or where separate and joint assets become commingled, the increased value may potentially be treated as marital joint property.

The analysis further demonstrates that the doctrine of property law recognizes all assets capable of economic valuation and legal control as objects of property rights. This doctrine

extends beyond tangible objects to include intangible rights and economic interests, emphasizing legal control (rechtsmacht) as the determining element of ownership. Consequently, digital assets fall within the scope of property law because they can be controlled, transferred, and provide measurable economic benefits to their owners. This interpretation is reinforced by the theory of property rights (vermogensrecht), which places greater emphasis on economic value and legal control than on physical existence. Under this approach, digital assets satisfy the essential characteristics of property because they possess exchange value, may be transferred, and remain under the exclusive control of one or both spouses. Accordingly, digital assets acquired during marriage may legitimately form part of the marital property regime. The findings also indicate that contemporary family wealth is no longer limited to conventional assets such as land, buildings, or savings. Technological developments have introduced new forms of wealth, including crypto investments, digital platforms, electronic wallets, and monetized digital accounts, which increasingly contribute to household income and financial stability. This transformation requires a more responsive interpretation of marital property law that reflects current economic realities. A restrictive interpretation limiting marital property to conventional assets would create legal uncertainty and potentially undermine fairness in the distribution of marital wealth. A progressive and inclusive interpretation is therefore necessary to ensure that the legal concept of marital joint property remains responsive to technological innovation while protecting the economic interests of both spouses. Such an approach focuses on the economic function and social purpose of property rather than its physical characteristics.

Interview findings further suggest that digital assets generally provide reliable evidence of ownership because blockchain technology and electronic transaction records preserve detailed transaction histories and account ownership. Nevertheless, disputes may arise when digital assets are actively managed, transferred, or developed during marriage without clear separation between separate and joint property. In such circumstances, transparent documentation and traceable transaction records become essential in determining the legal status of the assets.

Overall, the findings confirm that separate digital assets remain under the ownership of the respective spouse if acquired before marriage and supported by adequate evidence. However, appreciation in value, active management during marriage, and the commingling of assets may create legal uncertainty regarding their classification. Accordingly, preventive legal mechanisms, particularly marital agreements and comprehensive evidentiary documentation, play a crucial role in preserving legal certainty and preventing disputes concerning digital assets upon divorce (Maskun et al., 2025).

Regulation of Marital Joint Property

The regulation of marital joint property under Indonesian law is primarily governed by Article 35 of Law Number 1 of 1974 on Marriage, which distinguishes between property acquired before marriage and property obtained during the marriage. While premarital assets remain under the ownership of each spouse, assets acquired throughout the marriage are presumed to constitute marital joint property. This legal framework emphasizes the timing of acquisition rather than the form or nature of the property, thereby allowing both conventional and non-conventional assets to fall within the marital property regime.

The findings indicate that this broad legal interpretation is capable of accommodating digital assets within the concept of marital joint property. Since Article 35 does not distinguish between tangible and intangible property, digital assets acquired during marriage may be classified as jointly owned assets, provided that their acquisition during the marital period can be established. This interpretation reflects the expansion of property concepts in response to the development of the digital economy.

Interview findings with Lieke reinforce this interpretation by confirming that all assets

acquired during marriage, regardless of their physical form, may be recognized as marital joint property. Digital assets such as cryptocurrencies, Non-Fungible Tokens (NFTs), digital investment portfolios, and other blockchain-based assets therefore possess the same legal potential as conventional assets to be included within the marital property regime. However, the decisive factor remains the ability to demonstrate when and how the assets were acquired. The study further reveals that evidentiary issues constitute the principal challenge in determining the legal status of digital assets. Digital assets originating from premarital property remain the exclusive property of the respective spouse, including any appreciation in value, provided that their ownership history and management can be consistently demonstrated. Conversely, where ownership records become unclear or separate and joint assets are commingled, the appreciation in value may be regarded as marital joint property. Accordingly, judicial assessment should prioritize substantive fairness rather than relying solely on a formal equal division of assets.

Interview findings with Ursula Mogot further support the conclusion that digital assets satisfy the legal concept of "property" under Articles 499 and 503 of the Indonesian Civil Code. Although intangible, digital assets possess economic value, are capable of exclusive ownership, and may be transferred to other parties. Consequently, they fulfill the legal characteristics of intangible property and may legitimately form part of marital assets when acquired during marriage. The findings also demonstrate that ownership of digital assets can generally be established through electronic evidence, including blockchain transaction histories, digital account records, electronic wallets, and authenticated platform data. Therefore, the principal legal difficulty does not arise from the absence of legal recognition, but rather from technical issues relating to proof of ownership, valuation, and the fluctuating market value of digital assets. These circumstances require careful judicial evaluation and specialized legal understanding in resolving disputes involving digital property.

Indonesia's regulatory framework for digital assets has been significantly strengthened following the enactment of Law Number 4 of 2023 concerning Financial Sector Development and Strengthening (P2SK Law), which transferred supervisory authority over crypto assets to the Financial Services Authority (OJK). This development was subsequently reinforced through OJK Regulation Number 23 of 2025 concerning Digital Financial Asset Trading, which formally recognizes digital financial assets as economic assets that may be owned, transferred, and legally protected. These regulations indirectly reinforce the legal argument that digital assets may also constitute objects of marital property under civil law. The findings further suggest that the distribution of marital joint property should not always be based on a strict equal division. Judicial practice increasingly applies the principle of substantive justice by considering the actual contributions of each spouse, including both financial and non-financial contributions throughout the marriage. This contextual approach allows courts to achieve a more equitable allocation of assets, particularly where the ownership, management, or appreciation of digital assets involves differing levels of contribution from each spouse.

Interview findings with Mustahar confirm that blockchain technology and electronic transaction records provide relatively reliable mechanisms for proving ownership and tracing the acquisition of digital assets. Nevertheless, the ease with which digital assets can be transferred or concealed creates significant practical challenges during divorce proceedings. These risks highlight the importance of transparency, electronic verification, and preventive legal instruments, including marital agreements, to minimize disputes regarding ownership and distribution.

Overall, the findings demonstrate that Indonesian law provides a sufficient normative foundation for recognizing digital assets as marital joint property when acquired during marriage. Nevertheless, the absence of detailed procedural rules concerning proof, valuation, management, and distribution of digital assets continues to create legal uncertainty.

Accordingly, more adaptive regulations and judicial guidelines are necessary to ensure legal certainty, fairness, and effective protection of spouses' property rights in the rapidly evolving digital economy.

5. Conclusion

The status of digital assets under civil law in relation to joint marital property can be qualified as joint property as long as they are acquired during the marriage, because the Marriage Law does not limit the type of property to tangible objects. Digital assets owned before marriage remain as inherited property as long as their origin can be proven, while unclear proof has the potential to result in a difference in value being categorized as joint property. This condition emphasizes that proof is a key factor, while also revealing a clear legal vacuum because to date there is no specific regulation or Supreme Court decision that explicitly regulates the position of digital assets in the joint property regime.

Suggestions

Legislators need to strengthen and update family law regulations so that digital assets can be explicitly accommodated as part of marital property, including provisions regarding qualifications, proof, and distribution mechanisms. This will provide legal certainty in line with technological developments and modern forms of property. Notary practitioners are expected to play a more active preventive role by providing legal explanations to parties regarding the status of digital assets in marriage and encouraging the creation of prenuptial agreements or separation of assets agreements that explicitly regulate the ownership and distribution of digital assets. This is accompanied by an increased understanding of the technical characteristics of digital assets so that authentic deeds provided optimal legal protection. For judicial officials, increasing capacity and understanding regarding the characteristics of digital assets and electronic evidence is crucial, along with the development of technical guidelines or jurisprudence regarding the division of digital assets as joint property, so that examinations and decisions in divorce cases involving digital assets can be conducted consistently, fairly, and provide legal certainty

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