

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Supported Decision-Making Agreement Act is
5 amended by changing Sections 5, 10, 15, 30, 50, and 70 as
6 follows:

7 (755 ILCS 9/5)

8 Sec. 5. Purpose; interpretation. The purpose of this Act
9 is to protect vulnerable adults from exploitation by
10 recognizing ~~recognize a less-restrictive alternative to~~
11 ~~guardianship for~~ adults ~~with intellectual and developmental~~
12 ~~disabilities~~ who need support making ~~assistance with~~ decisions
13 regarding daily living and who, with proper support, retain
14 the capacity to make those decisions. Supported
15 decision-making is intended to provide individuals a way to
16 maintain autonomy and decision-making authority over their own
17 lives by developing and maintaining voluntary supports to
18 assist them in understanding, making, communicating, and
19 implementing their own informed choices.

20 This Act shall be administered and interpreted in
21 accordance with the following principles:

22 (1) All adults, including adults with disabilities and
23 older adults, are presumed competent and to have the

1 capacity to make decisions regarding their day-to-day
2 health, safety, welfare, and social and financial affairs,
3 ~~should be able to live in the manner they choose and to~~
4 ~~accept or refuse support, assistance, or protection unless~~
5 otherwise determined through legal proceedings ~~as long as~~
6 ~~they do not harm others and are capable of making~~
7 ~~decisions about those matters.~~

8 (2) All adults should be able to be informed about
9 and, to the best of their ability and with the supports
10 they choose, participate in decisions regarding daily
11 living and managing their affairs.

12 (3) Adults use a wide range of voluntary supports to
13 help them understand, make, and communicate their own
14 decisions. These voluntary arrangements should be
15 encouraged and recognized as a valid way for people to
16 strengthen their capacity and maintain their autonomy.

17 (4) All adults should receive the most effective yet
18 least restrictive and intrusive forms of support,
19 assistance, and protection when they are unable to care
20 for themselves or manage their affairs alone.

21 (5) ~~(4)~~ The values, beliefs, wishes, cultural norms,
22 and traditions that the principal holds should be
23 respected.

24 (6) To safeguard vulnerable persons from exploitation,
25 a supported decision-making agreement:

26 (A) must include the specific areas for which the

1 supporter requests support;

2 (B) should be reviewed every 2 years;

3 (C) must include information about how to report
4 abuse, neglect, or exploitation of an adult with
5 disabilities;

6 (D) must allow an interested person to seek
7 suspension or revocation of a supported
8 decision-making agreement;

9 (E) must require a supporter to attest that the
10 supporter must complete training and is eligible to
11 serve as a supporter;

12 (F) is automatically terminated if a supporter
13 becomes disqualified;

14 (G) must contain the names and signatures of 2
15 witnesses; and

16 (H) must include a statement that the supporter is
17 not authorized to make a decision for the principal.

18 (7) Under a supported decision-making agreement:

19 (A) the principal makes the decisions and retains
20 all personal rights and autonomy;

21 (B) the principal chooses trusted individuals to
22 support them; and

23 (C) supporters advise the principal, provide
24 information, and help them understand the implications
25 of different choices, but they do not make the
26 decision.

(Source: P.A. 102-614, eff. 2-27-22.)

(755 ILCS 9/10)

Sec. 10. Definitions. As used in this Act:

"Adult" means a person who is at least 18 years of age.

"Everyday life decisions" means decisions that support one's existence, including, but not limited to, decisions regarding medical care and treatment, one's residence, work, finances, and social life.

"Interested person" means the principal's spouse, parent, or adult child; a governmental agency having regulatory authority to protect the welfare of the principal; a service provider as defined in the Guardianship and Advocacy Act; and the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare.

"Principal" means an adult who is not under plenary guardianship and has not otherwise been declared by a physician to lack decisional capacity and ~~with intellectual or developmental disabilities~~ who seeks to enter, or has entered, into a supported decision-making agreement with a supporter under this Act.

"Supported decision-making" means a process of supporting and accommodating a principal to assist the principal in making life decisions under a supported decision-making agreement.

"Supported decision-making agreement" means an agreement

1 between a principal and a supporter under this Act that
2 identifies the life decisions that can be supported, which may
3 include, but are not limited to, decisions related to where
4 the principal wants to live, with whom the principal wants to
5 live, where the principal wants to work, and the services,
6 supports, or medical care the principal wants to receive
7 without impeding the self-determination of the principal.

8 "Supporter" means an adult who has entered into a
9 supported decision-making agreement with a principal under
10 this Act.

11 (Source: P.A. 102-614, eff. 2-27-22.)

12 (755 ILCS 9/15)

13 Sec. 15. Presumption of capability.

14 (a) All adults are presumed to be capable of making
15 decisions regarding daily living and to have capacity unless
16 otherwise determined by a court. ~~A diagnosis of mental~~
17 ~~illness, intellectual disability, or developmental disability,~~
18 ~~of itself, does not void the presumption of capacity.~~

19 (b) The manner in which an adult communicates with others
20 is not grounds for deciding that the adult is incapable of
21 managing the affairs of the adult.

22 (c) The execution of a supported decision-making agreement
23 may not be used as evidence of capacity or incapacity in any
24 civil or criminal proceeding; however, the existence of such
25 an agreement may be entered into evidence. The execution of a

1 supported decision-making agreement ~~and~~ does not preclude the
2 ability of the adult who has entered into a supported
3 decision-making agreement to act independently of the
4 agreement.

5 (Source: P.A. 102-614, eff. 2-27-22.)

6 (755 ILCS 9/30)

7 Sec. 30. Supporter duties.

8 (a) Except as otherwise provided by a supported
9 decision-making agreement, a supporter may:

10 (1) Assist the principal in understanding information,
11 options, responsibilities, and consequences of the life
12 decisions of the principal, including those decisions
13 related to the affairs or support services of the
14 principal.

15 (2) Help the principal access, obtain, and understand
16 any information that is relevant to any given life
17 decision, including a medical, psychological, financial,
18 or educational decision, or any treatment records or
19 records necessary to manage the affairs or support
20 services of the principal.

21 (3) Assist the principal in finding, obtaining, making
22 appointments for, and implementing the support services or
23 plans for support services of the principal.

24 (4) Help the principal monitor information about the
25 affairs or support services of the principal, including

1 keeping track of future necessary or recommended services.

2 (5) Ascertain the wishes and decisions of the
3 principal in order to advocate that the wishes and
4 decisions of an individual with disabilities are
5 implemented.

6 (b) A supporter shall act with the care, competence, and
7 diligence ordinarily exercised by an individual in a similar
8 circumstance, with due regard to the possession of, or lack
9 of, special skills or expertise.

10 (c) A supporter shall complete the ~~seek~~ training developed
11 by the Guardianship and Advocacy Commission ~~and education~~
12 regarding the responsibilities and limitations of the
13 supporter role within 45 days of signing the consent to act as
14 a supporter. The Guardianship and Advocacy Commission shall
15 provide public information about this Act and the supporter
16 role, responsibilities, and limitations.

17 The Guardianship and Advocacy Commission shall develop
18 training and education materials for both principals and
19 supporters, including, but not limited to, sample agreements
20 that will be posted on the website of the Commission along with
21 public awareness materials.

22 (Source: P.A. 102-614, eff. 2-27-22.)

23 (755 ILCS 9/50)

24 Sec. 50. Agreement instrument.

25 (a) A supported decision-making agreement must be written

1 in plain language and include the following:

2 (1) a list of the areas in which both the principal
3 requests support and the supporter agrees to provide
4 support;

5 (2) the supporter's agreement that the supporter is
6 not disqualified from acting under Section 20 of this Act;

7 (3) the supporter's agreement that the supporter will
8 complete the training required by subsection (c) of
9 Section 30 of this Act;

10 (4) a statement that a supporter is not authorized to
11 make a decision for the principal; and

12 (5) information about how to report suspicion that an
13 adult with a disability is being abused, neglected, or
14 exploited by the supporter.

15 (b) A supported decision-making agreement must be signed
16 by the principal and each supporter. The principal may use
17 reasonable modifications, such as assistive technology or
18 physical assistance, to sign the agreement.

19 (c) A supported decision-making agreement should be
20 reviewed by the principal and all supporters every 2 years and
21 updated, as needed, in the same manner as an initial supported
22 decision-making agreement is executed.

23 (d) A supported decision-making agreement is valid if it
24 substantially follows the following form:

25 "SUPPORTED DECISION-MAKING AGREEMENT

Important Information for the Supporter: Duties

If you agree to provide support to the principal, you have a duty to:

(1) act in good faith;

(2) act within the authority granted in this agreement;

(3) act loyally and without self-interest; ~~and~~

(4) avoid conflicts of interest; and ~~+~~

(5) complete the training required in Section 30 of the Supported Decision-Making Agreement Act.

Appointment of Supporter

I, (insert principal's name), make this agreement of my own free will.

I agree and designate that the following individual is my supporter:

Name:.....

Address:

Phone Number:.....

Email Address:

My supporter is to help me make decisions for myself and may help me with making everyday life decisions relating to

1 the following:

2 (Yes/No) obtaining food, clothing, and shelter.

3 (Yes/No) taking care of my physical and emotional
4 health.

5 (Yes/No) managing my financial affairs.

6 (Yes/No) applying for public benefits.

7 (Yes/No) helping me find work.

8 (Yes/No) assisting with residential services.

9 (Yes/No) helping me with school.

10 (Yes/No) helping me advocate for myself.

11 My supporter is not allowed to make decisions for me. To
12 help me with my decisions, my supporter may:

13 (1) help me access, collect, or obtain information
14 that is relevant to a decision, including medical,
15 psychological, financial, educational, housing, and
16 treatment records;

17 (2) help me understand my options so that I can make an
18 informed decision; and

19 (3) help me communicate my decision to appropriate
20 persons.

21 I want my supporter to have:

22 (Yes/No) A release allowing my supporter to see
23 protected health information under the Health Insurance
24 Portability and Accountability Act of 1996 is attached.

1 (Yes/No) A release allowing my supporter to see
2 confidential information under the Mental Health and
3 Developmental Disabilities Confidentiality Act is
4 attached.

5 (Yes/No) A release allowing my supporter to see
6 educational records under the Family Educational Rights
7 and Privacy Act of 1974 and the Illinois School Records
8 Act is attached.

9 (Yes/No) A release allowing my supporter to see
10 substance abuse records under Confidentiality of Alcohol
11 and Drug Abuse Patient Records regulations is attached.

12 This supported decision-making agreement is effective
13 immediately and will continue until (insert date) or until the
14 agreement is terminated by my supporter or me or by operation
15 of law.

16 Signed this day of, 20....

17 (Signature of Principal) (Printed name of principal)

18 Consent of Supporter

19 I, (name of supporter), consent to act as a supporter
20 under this agreement.

21 (Signature of supporter) (Printed name of supporter)

1 (Witness 1 signature) (Printed name of witness 1)

2 (Witness 2 signature) (Printed name of witness 2)

3 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY

4 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE
5 OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT
6 THE ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR
7 EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE
8 ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE ADULT
9 PROTECTIVE SERVICES HOTLINE: 1-866-800-1409, 1-888-206-1327
10 (TTY)."

11 This form is not intended to exclude other forms or
12 agreements that identify the principal, supporter, and types
13 of supports.

14 (Source: P.A. 102-614, eff. 2-27-22.)

15 (755 ILCS 9/70)

16 Sec. 70. Term of agreement; revocation.

17 (a) A supported decision-making agreement extends until
18 ~~terminated by either party or by the terms of the agreement.~~

19 (b) A supported decision-making agreement is terminated
20 if:

21 (1) the Office of Inspector General or Adult
22 Protective Services substantiated an allegation of abuse

1 or neglect by the supporter; ~~or~~

2 (2) there is a restraining order against the supporter
3 by or on behalf of the principal;~~or~~

4 (3) all supporters become disqualified from acting as
5 a supporter under Section 20 of this Act;

6 (4) the principal revokes the agreement;

7 (5) the supporter resigns; or

8 (6) the agreement includes a termination date.

9 (b-5) A supported decision-making agreement is suspended
10 while:

11 (1) the conditions of Section 15 of the Health Care
12 Surrogate Act are met;

13 (2) a medical or psychological evaluation has
14 concluded the principal lacks decisional capacity but a
15 subsequent evaluation has not yet found the principal's
16 decisional capacity restored; or

17 (3) the agency established in a durable power of
18 attorney has begun but not yet terminated.

19 (c) A principal may revoke his or her supported
20 decision-making agreement and invalidate the supported
21 decision-making agreement at any time by:

22 (1) canceling or destroying the supported
23 decision-making agreement or directing another in the
24 presence of the principal to destroy the decision-making
25 agreement;

26 (2) executing a statement, in writing, that is signed

1 and dated by the principal, expressing his or her intent
2 to revoke the supported decision-making agreement; or

3 (3) verbally expressing the intent of the principal to
4 revoke the supported decision-making agreement in the
5 presence of 2 witnesses.

6 (d) Unless the supported decision-making agreement
7 provides a different method for the resignation of the
8 supporter support, a supporter may resign by giving written
9 notice to the principal.

10 (d-5) A supporter must give written notice to the
11 principal if the supporter becomes disqualified from acting as
12 a supporter under Section 20 of this Act.

13 (e) The last signed agreement holds.

14 (f) Upon the filing of a petition by an interested person,
15 a court may suspend or terminate a supported decision-making
16 agreement if necessary to ensure the well-being and safety of
17 the principal. Proceedings under this subsection may be
18 commenced in the county where the principal resides.

19 (Source: P.A. 102-614, eff. 2-27-22.)