



Sen. Sara Feigenholtz

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LRB104 18227 JRC 35971 a

1 AMENDMENT TO SENATE BILL 3568

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3568 by replacing  
3 everything after the enacting clause with the following:

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

1 lives by developing and maintaining voluntary supports to  
2 assist them in understanding, making, communicating, and  
3 implementing their own informed choices.

4 This Act shall be administered and interpreted in  
5 accordance with the following principles:

6 (1) All adults, including adults with disabilities and  
7 older adults, are presumed competent and to have the  
8 capacity to make decisions regarding their day-to-day  
9 health, safety, welfare, and social and financial affairs,  
10 ~~should be able to live in the manner they choose and to~~  
11 ~~accept or refuse support, assistance, or protection unless~~  
12 otherwise determined through legal proceedings as long as  
13 ~~they do not harm others and are capable of making~~  
14 ~~decisions about those matters.~~

15 (2) All adults should be able to be informed about  
16 and, to the best of their ability and with the supports  
17 they choose, participate in decisions regarding daily  
18 living and managing their affairs.

19 (3) Adults use a wide range of voluntary supports to  
20 help them understand, make, and communicate their own  
21 decisions. These voluntary arrangements should be  
22 encouraged and recognized as a valid way for people to  
23 strengthen their capacity and maintain their autonomy.

24 (4) All adults should receive the most effective yet  
25 least restrictive and intrusive forms of support,  
26 assistance, and protection when they are unable to care

1 for themselves or manage their affairs alone.

2 (5) ~~(4)~~ The values, beliefs, wishes, cultural norms,  
3 and traditions that the principal holds should be  
4 respected.

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

7 (A) must include the specific areas for which the  
8 supporter requests support;

9 (B) should be reviewed every 2 years;

10 (C) must include information about how to report  
11 abuse, neglect, or exploitation of an adult with  
12 disabilities;

13 (D) must allow an interested person to seek  
14 suspension or revocation of a supported  
15 decision-making agreement;

16 (E) must require a supporter to attest that the  
17 supporter must complete training and is eligible to  
18 serve as a supporter;

19 (F) is automatically terminated if a supporter  
20 becomes disqualified;

21 (G) must contain the names and signatures of 2  
22 witnesses; and

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

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

26 (A) the principal makes the decisions and retains

1           all personal rights and autonomy;

2           (B) the principal chooses trusted individuals to  
3           support them; and

4           (C) supporters advise the principal, provide  
5           information, and help them understand the implications  
6           of different choices, but they do not make the  
7           decision.

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

9           (755 ILCS 9/10)

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

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

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

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

22          "Principal" means an adult who is not under plenary  
23          guardianship and has not otherwise been declared by a  
24          physician to lack decisional capacity and ~~with intellectual or~~  
25          ~~developmental disabilities~~ who seeks to enter, or has entered,

1 into a supported decision-making agreement with a supporter  
2 under this Act.

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

7 "Supported decision-making agreement" means an agreement  
8 between a principal and a supporter under this Act that  
9 identifies the life decisions that can be supported, which may  
10 include, but are not limited to, decisions related to where  
11 the principal wants to live, with whom the principal wants to  
12 live, where the principal wants to work, and the services,  
13 supports, or medical care the principal wants to receive  
14 without impeding the self-determination of the principal.

15 "Supporter" means an adult who has entered into a  
16 supported decision-making agreement with a principal under  
17 this Act.

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

19 (755 ILCS 9/15)

20 Sec. 15. Presumption of capability.

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

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

4 (c) The execution of a supported decision-making agreement  
5 may not be used as evidence of capacity or incapacity in any  
6 civil or criminal proceeding; however, the existence of such  
7 an agreement may be entered into evidence. The execution of a  
8 supported decision-making agreement ~~and~~ does not preclude the  
9 ability of the adult who has entered into a supported  
10 decision-making agreement to act independently of the  
11 agreement.

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

13 (755 ILCS 9/30)

14 Sec. 30. Supporter duties.

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

17 (1) Assist the principal in understanding information,  
18 options, responsibilities, and consequences of the life  
19 decisions of the principal, including those decisions  
20 related to the affairs or support services of the  
21 principal.

22 (2) Help the principal access, obtain, and understand  
23 any information that is relevant to any given life  
24 decision, including a medical, psychological, financial,  
25 or educational decision, or any treatment records or

1 records necessary to manage the affairs or support  
2 services of the principal.

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

6 (4) Help the principal monitor information about the  
7 affairs or support services of the principal, including  
8 keeping track of future necessary or recommended services.

9 (5) Ascertain the wishes and decisions of the  
10 principal in order to advocate that the wishes and  
11 decisions of an individual with disabilities are  
12 implemented.

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

17 (c) A supporter shall complete the ~~seek~~ training developed  
18 by the Guardianship and Advocacy Commission and ~~education~~  
19 regarding the responsibilities and limitations of the  
20 supporter role within 45 days of signing the consent to act as  
21 a supporter. The Guardianship and Advocacy Commission shall  
22 provide public information about this Act and the supporter  
23 role, responsibilities, and limitations.

24 The Guardianship and Advocacy Commission shall develop  
25 training and education materials for both principals and  
26 supporters, including, but not limited to, sample agreements

1 that will be posted on the website of the Commission along with  
2 public awareness materials.

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

4 (755 ILCS 9/50)

5 Sec. 50. Agreement instrument.

6 (a) A supported decision-making agreement must be written  
7 in plain language and include the following:

8 (1) a list of the areas in which both the principal  
9 requests support and the supporter agrees to provide  
10 support;

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

13 (3) the supporter's agreement that the supporter will  
14 complete the training required by subsection (c) of  
15 Section 30 of this Act;

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

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

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

25 (c) A supported decision-making agreement should be

1 reviewed by the principal and all supporters every 2 years and  
2 updated, as needed, in the same manner as an initial supported  
3 decision-making agreement is executed.

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

6 "SUPPORTED DECISION-MAKING AGREEMENT

7 Important Information for the Supporter: Duties

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

10 (1) act in good faith;

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

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

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

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

17 Appointment of Supporter

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

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

1 Name:.....  
 2 Address: .....  
 3 Phone Number:.....  
 4 Email Address: .....

5 My supporter is to help me make decisions for myself and  
 6 may help me with making everyday life decisions relating to  
 7 the following:

- 8 (Yes/No) obtaining food, clothing, and shelter.
- 9 (Yes/No) taking care of my physical and emotional  
 10 health.
- 11 (Yes/No) managing my financial affairs.
- 12 (Yes/No) applying for public benefits.
- 13 (Yes/No) helping me find work.
- 14 (Yes/No) assisting with residential services.
- 15 (Yes/No) helping me with school.
- 16 (Yes/No) helping me advocate for myself.

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

- 19 (1) help me access, collect, or obtain information  
 20 that is relevant to a decision, including medical,  
 21 psychological, financial, educational, housing, and  
 22 treatment records;
- 23 (2) help me understand my options so that I can make an  
 24 informed decision; and

1           (3) help me communicate my decision to appropriate  
2 persons.

3 I want my supporter to have:

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

7           (Yes/No) A release allowing my supporter to see  
8 confidential information under the Mental Health and  
9 Developmental Disabilities Confidentiality Act is  
10 attached.

11           (Yes/No) A release allowing my supporter to see  
12 educational records under the Family Educational Rights  
13 and Privacy Act of 1974 and the Illinois School Records  
14 Act is attached.

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

18           This supported decision-making agreement is effective  
19 immediately and will continue until (insert date) or until the  
20 agreement is terminated by my supporter or me or by operation  
21 of law.

22           Signed this .... day of ....., 20....

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

1 Consent of Supporter

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

4 (Signature of supporter) (Printed name of supporter)

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

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

7 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY

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

15 This form is not intended to exclude other forms or  
16 agreements that identify the principal, supporter, and types  
17 of supports.

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

1           Sec. 70. Term of agreement; revocation.

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

4           (b) A supported decision-making agreement is terminated  
5 if:

6           (1) the Office of Inspector General or Adult  
7 Protective Services substantiated an allegation of abuse  
8 or neglect by the supporter; ~~or~~

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

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

13           (4) the principal revokes the agreement;

14           (5) the supporter resigns; or

15           (6) the agreement includes a termination date.

16           (b-5) A supported decision-making agreement is suspended  
17 while:

18           (1) the conditions of Section 15 of the Health Care  
19 Surrogate Act are met;

20           (2) a medical or psychological evaluation has  
21 concluded the principal lacks decisional capacity but a  
22 subsequent evaluation has not yet found the principal's  
23 decisional capacity restored; or

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

26           (c) A principal may revoke his or her supported

1 decision-making agreement and invalidate the supported  
2 decision-making agreement at any time by:

3 (1) canceling or destroying the supported  
4 decision-making agreement or directing another in the  
5 presence of the principal to destroy the decision-making  
6 agreement;

7 (2) executing a statement, in writing, that is signed  
8 and dated by the principal, expressing his or her intent  
9 to revoke the supported decision-making agreement; or

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

13 (d) Unless the supported decision-making agreement  
14 provides a different method for the resignation of the  
15 supporter support, a supporter may resign by giving written  
16 notice to the principal.

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

20 (e) The last signed agreement holds.

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

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