

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 1. Short title. This Act may be cited as the  
5 Supported Decision-Making Agreement Act.

6 Section 5. Purpose; interpretation. The purpose of this  
7 Act is to recognize a less-restrictive alternative to  
8 guardianship for adults with intellectual and developmental  
9 disabilities who need assistance with decisions regarding  
10 daily living.

11 This Act shall be administered and interpreted in  
12 accordance with the following principles:

13 (1) All adults should be able to live in the manner  
14 they choose and to accept or refuse support, assistance,  
15 or protection as long as they do not harm others and are  
16 capable of making decisions about those matters.

17 (2) All adults should be able to be informed about  
18 and, to the best of their ability, participate in  
19 decisions regarding daily living.

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

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

3           Section 10. Definitions. As used in this Act:

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

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

9           "Principal" means an adult with intellectual or  
10          developmental disabilities who seeks to enter, or has entered,  
11          into a supported decision-making agreement with a supporter  
12          under this Act.

13          "Supported decision-making agreement" means an agreement  
14          between a principal and a supporter under this Act.

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

18          Section 15. Presumption of capability.

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

24          (b) The manner in which an adult communicates with others

1 is not grounds for deciding that the adult is incapable of  
2 managing the affairs of the adult.

3 (c) The execution of a supported decision-making agreement  
4 may not be used as evidence of capacity or incapacity in any  
5 civil or criminal proceeding and does not preclude the ability  
6 of the adult who has entered into a supported decision-making  
7 agreement to act independently of the agreement.

8 Section 20. Supporter disqualifications. The following  
9 persons are disqualified from acting as a supporter:

10 (1) a person who is an employer or employee of the  
11 principal, unless the person is an immediate family member  
12 of the principal;

13 (2) a person directly providing paid support services  
14 to the principal, unless the person is an immediate family  
15 member of the principal;

16 (3) a person who works for an agency that is  
17 financially responsible for the care of the principal;

18 (4) a person who is listed on the Health Care Worker  
19 Registry maintained by the Illinois Department of Public  
20 Health as ineligible to work;

21 (5) an individual who is the subject of a civil or  
22 criminal order prohibiting contact with the principal; and

23 (6) a person who has been convicted of:

24 (i) a sex offense;

25 (ii) aggravated assault;

- 1 (iii) fraud;
- 2 (iv) theft;
- 3 (v) forgery; or
- 4 (vi) extortion.

5 Section 25. Authority of the supporter. A supporter may  
6 exercise the authority granted to the supporter in the  
7 supported decision-making agreement.

8 Section 30. Supporter duties.

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

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

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

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

1           (4) Help the principal monitor information about the  
2           affairs or support services of the principal, including  
3           keeping track of future necessary or recommended services.

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

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

12          (c) A supporter shall seek training and education  
13          regarding the responsibilities and limitations of the  
14          supporter role. 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          Section 35. Supporter prohibitions. A supporter is  
23          prohibited from:

24                  (1) Exerting undue influence upon, or making decisions  
25                  on behalf of, the principal.

1           (2) Obtaining, without the consent of the principal,  
2           information that is not reasonably related to matters with  
3           which the supporter is authorized to assist under the  
4           supported decision-making agreement.

5           (3) Using, without the consent of the principal,  
6           information acquired for a purpose other than assisting  
7           the principal to make a decision under the supported  
8           decision-making agreement.

9           (4) Receiving compensation for acting as a supporter,  
10          except as otherwise provided by this Act.

11          Section 40. Access to personal information.

12          (a) A supporter is only authorized to assist the principal  
13          in accessing, collecting, or obtaining information that is  
14          relevant to a decision authorized under the supported  
15          decision-making agreement.

16          (b) If a supporter assists a principal in accessing,  
17          collecting, or obtaining personal information, including  
18          protected health information under the Health Insurance  
19          Portability and Accountability Act of 1996 or educational  
20          records under the Family Educational Rights and Privacy Act of  
21          1974, the supporter shall ensure that the information is kept  
22          privileged and confidential, as applicable, and is not subject  
23          to unauthorized access, use, or disclosure.

24          (c) The existence of a supported decision-making agreement  
25          does not preclude a principal from seeking personal

1 information without the assistance of the supporter.

2 Section 45. Authorization and witnesses. A principal and  
3 his or her supporter entering into a supported decision-making  
4 agreement shall sign and date the agreement in the presence of  
5 2 or more subscribing witnesses who are at least 18 years of  
6 age. The principal's supporter shall not serve as a witness to  
7 the support decision-making agreement.

8 Section 50. Agreement instrument. A supported  
9 decision-making agreement is valid if it substantially follows  
10 the following form:

11 "SUPPORTED DECISION-MAKING AGREEMENT

12 Important Information for the Supporter: Duties

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

15 (1) act in good faith;

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

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

19 (4) avoid conflicts of interest.

20 Appointment of Supporter

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

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

5 Name:.....

6 Address: .....

7 Phone Number:.....

8 Email Address: .....

9 My supporter is to help me make decisions for myself and  
10 may help me with making everyday life decisions relating to  
11 the following:

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

13 (Yes/No) taking care of my physical and emotional  
14 health.

15 (Yes/No) managing my financial affairs.

16 (Yes/No) applying for public benefits.

17 (Yes/No) helping me find work.

18 (Yes/No) assisting with residential services.

19 (Yes/No) helping me with school.

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

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

23 (1) help me access, collect, or obtain information



1 that is relevant to a decision, including medical,  
2 psychological, financial, educational, housing, and  
3 treatment records;

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

6 (3) help me communicate my decision to appropriate  
7 persons.

8 I want my supporter to have:

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

12 (Yes/No) A release allowing my supporter to see  
13 confidential information under the Mental Health and  
14 Developmental Disabilities Confidentiality Act is  
15 attached.

16 (Yes/No) A release allowing my supporter to see  
17 educational records under the Family Educational Rights  
18 and Privacy Act of 1974 and the Illinois School Records  
19 Act is attached.

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

23 This supported decision-making agreement is effective  
24 immediately and will continue until (insert date) or until the

1 agreement is terminated by my supporter or me or by operation  
2 of law.

3 Signed this .... day of ....., 20....

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

5 Consent of Supporter

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

8 (Signature of supporter) (Printed name of supporter)

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

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

11 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY

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

19 This form is not intended to exclude other forms or

1 agreements that identify the principal, supporter, and types  
2 of supports.

3 Section 55. Reliance on agreement; limitation of  
4 liability.

5 (a) A person who receives the original or a copy of a  
6 supported decision-making agreement shall rely on the  
7 agreement.

8 (b) A person is not subject to criminal or civil liability  
9 and has not engaged in professional misconduct for an act or  
10 omission if the act or omission is done in good faith and in  
11 reliance on a supported decision-making agreement.

12 Section 60. Recognition of supporters. A decision or  
13 request made or communicated with the assistance of a  
14 supporter in conformity with this Act shall be recognized for  
15 the purposes of any provision of law as the decision or request  
16 of the principal and may be enforced by the principal or  
17 supporter in law or equity on the same basis as a decision or  
18 request of the principal.

19 Section 65. Reporting of suspected abuse, neglect, or  
20 exploitation. If a person who receives a copy of a supported  
21 decision-making agreement or is aware of the existence of a  
22 supported decision-making agreement and has cause to believe  
23 that the adult with a disability is being abused, neglected,

1 or exploited by the supporter, the person shall report the  
2 alleged abuse, neglect, or exploitation to the Adult  
3 Protective Services Hotline: 1-866-800-1409, 1-888-206-1327  
4 (TTY).

5 Section 70. Term of agreement; revocation.

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

8 (b) A supported decision-making agreement is terminated  
9 if:

10 (1) the Office of Inspector General or Adult  
11 Protective Services substantiated an allegation of abuse  
12 or neglect by the supporter; or

13 (2) there is a restraining order against the supporter  
14 by the principal.

15 (c) A principal may revoke his or her supported  
16 decision-making agreement and invalidate the supported  
17 decision-making agreement at any time by:

18 (1) canceling or destroying the supported  
19 decision-making agreement or directing another in the  
20 presence of the principal to destroy the decision-making  
21 agreement;

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

25 (3) verbally expressing the intent of the principal to

1           revoke the supported decision-making agreement in the  
2           presence of 2 witnesses.

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

7           (e) The last signed agreement holds.

8           Section 99. Effective date. This Act takes effect 6 months  
9           after becoming law.