

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, assist in communicating those wishes and  
6           decisions to other persons, and advocate to ensure that  
7           the wishes and decisions of the principal are 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 education regarding the  
13          responsibilities and limitations of the supporter role. The  
14          Guardianship and Advocacy Commission shall provide public  
15          information about this Act and the supporter role,  
16          responsibilities, and limitations.

17          Section 35. Supporter prohibitions. A supporter is  
18          prohibited from:

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

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

25               (3) Using, without the consent of the principal,

1 information acquired for a purpose other than assisting  
2 the principal to make a decision under the supported  
3 decision-making agreement.

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

6 Section 40. Access to personal information.

7 (a) A supporter is only authorized to assist the principal  
8 in accessing, collecting, or obtaining information that is  
9 relevant to a decision authorized under the supported  
10 decision-making agreement.

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

19 (c) The existence of a supported decision-making agreement  
20 does not preclude a principal from seeking personal  
21 information without the assistance of the supporter.

22 Section 45. Authorization and witnesses. A principal and  
23 his or her supporter entering into a supported decision-making  
24 agreement shall sign and date the agreement in the presence of

1 2 or more subscribing witnesses who are at least 18 years of  
2 age. The principal's supporter shall not serve as a witness to  
3 the support decision-making agreement.

4 Section 50. Agreement instrument. A supported  
5 decision-making agreement is valid if it substantially follows  
6 the following form:

7 "SUPPORTED DECISION-MAKING AGREEMENT

8 Important Information for the Supporter: Duties

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

- 11 (1) act in good faith;  
12 (2) act within the authority granted in this  
13 agreement;  
14 (3) act loyally and without self-interest; and  
15 (4) avoid conflicts of interest.

16 Appointment of Supporter

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

19 I agree and designate that the following individual is my  
20 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 Section 55. Reliance on agreement; limitation of  
19 liability.

1           (a) A person who receives the original or a copy of a  
2 supported decision-making agreement shall rely on the  
3 agreement.

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

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

15           Section 65. Reporting of suspected abuse, neglect, or  
16 exploitation. If a person who receives a copy of a supported  
17 decision-making agreement or is aware of the existence of a  
18 supported decision-making agreement and has cause to believe  
19 that the adult with a disability is being abused, neglected,  
20 or exploited by the supporter, the person shall report the  
21 alleged abuse, neglect, or exploitation to the Adult  
22 Protective Services Hotline: 1-866-800-1409, 1-888-206-1327  
23 (TTY).

1 Section 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 the principal.

11 (c) A principal may revoke his or her supported  
12 decision-making agreement and invalidate the supported  
13 decision-making agreement at any time by:

14 (1) canceling or destroying the supported  
15 decision-making agreement or directing another in the  
16 presence of the principal to destroy the decision-making  
17 agreement;

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

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

24 (d) Unless the supported decision-making agreement  
25 provides a different method for the resignation of the  
26 support, a supporter may resign by giving notice to the

1 principal.

2 (e) The last signed agreement holds.

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.