

1-1 By: Zaffirini S.B. No. 1881
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 April 16, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 16, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1881 By: Rodríguez

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to authorizing supported decision-making agreements for
 1-22 certain adults with disabilities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle I, Title 3, Estates Code, is amended by
 1-25 adding Chapter 1357 to read as follows:

1-26 CHAPTER 1357. SUPPORTED DECISION-MAKING AGREEMENT ACT

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 1357.001. SHORT TITLE. This chapter may be cited as
 1-29 the Supported Decision-Making Agreement Act.

1-30 Sec. 1357.002. DEFINITIONS. In this chapter:

1-31 (1) "Adult" means an individual 18 years of age or
 1-32 older or an individual under 18 years of age who has had the
 1-33 disabilities of minority removed.

1-34 (2) "Disability" means, with respect to an individual,
 1-35 a physical or mental impairment that substantially limits one or
 1-36 more major life activities.

1-37 (3) "Supported decision-making" means a process of
 1-38 supporting and accommodating an adult with a disability to enable
 1-39 the adult to make life decisions, including decisions related to
 1-40 where the adult wants to live, the services, supports, and medical
 1-41 care the adult wants to receive, whom the adult wants to live with,
 1-42 and where the adult wants to work, without impeding the
 1-43 self-determination of the adult.

1-44 (4) "Supported decision-making agreement" is an
 1-45 agreement between an adult with a disability and a supporter
 1-46 entered into under this chapter.

1-47 (5) "Supporter" means an adult who has entered into a
 1-48 supported decision-making agreement with an adult with a
 1-49 disability.

1-50 Sec. 1357.003. PURPOSE. The purpose of this chapter is to
 1-51 recognize a less restrictive alternative to guardianship for adults
 1-52 with disabilities who need assistance with decisions regarding
 1-53 daily living but who are not considered incapacitated persons for
 1-54 purposes of establishing a guardianship under this title.

1-55 SUBCHAPTER B. SCOPE OF AGREEMENT AND AGREEMENT REQUIREMENTS

1-56 Sec. 1357.051. SCOPE OF SUPPORTED DECISION-MAKING
 1-57 AGREEMENT. An adult with a disability may voluntarily, without
 1-58 undue influence or coercion, enter into a supported decision-making
 1-59 agreement with a supporter under which the adult with a disability
 1-60 authorizes the supporter to do any or all of the following:

2-1 (1) provide supported decision-making, including
2-2 assistance in understanding the options, responsibilities, and
2-3 consequences of the adult's life decisions, without making those
2-4 decisions on behalf of the adult with a disability;

2-5 (2) subject to Section 1357.054, assist the adult in
2-6 accessing, collecting, and obtaining information that is relevant
2-7 to a given life decision, including medical, psychological,
2-8 financial, educational, or treatment records, from any person;

2-9 (3) assist the adult with a disability in
2-10 understanding the information described by Subdivision (2); and

2-11 (4) assist the adult in communicating the adult's
2-12 decisions to appropriate persons.

2-13 Sec. 1357.052. AUTHORITY OF SUPPORTER. A supporter may
2-14 exercise the authority granted to the supporter in the supported
2-15 decision-making agreement.

2-16 Sec. 1357.053. TERM OF AGREEMENT. (a) Except as provided
2-17 by Subsection (b), the supported decision-making agreement extends
2-18 until terminated by either party or by the terms of the agreement.

2-19 (b) The supported decision-making agreement is terminated
2-20 if:

2-21 (1) the Department of Family and Protective Services
2-22 finds that the adult with a disability has been abused, neglected,
2-23 or exploited by the supporter; or

2-24 (2) the supporter is found criminally liable for
2-25 conduct described by Subdivision (1).

2-26 Sec. 1357.054. ACCESS TO PERSONAL INFORMATION. (a) A
2-27 supporter is only authorized to assist the adult with a disability
2-28 in accessing, collecting, or obtaining information that is relevant
2-29 to a decision authorized under the supported decision-making
2-30 agreement.

2-31 (b) If a supporter assists an adult with a disability in
2-32 accessing, collecting, or obtaining personal information,
2-33 including protected health information under the Health Insurance
2-34 Portability and Accountability Act of 1996 (Pub. L. No. 104-191) or
2-35 educational records under the Family Educational Rights and Privacy
2-36 Act of 1974 (20 U.S.C. Section 1232g), the supporter shall ensure
2-37 the information is kept privileged and confidential, as applicable,
2-38 and is not subject to unauthorized access, use, or disclosure.

2-39 (c) The existence of a supported decision-making agreement
2-40 does not preclude an adult with a disability from seeking personal
2-41 information without the assistance of a supporter.

2-42 Sec. 1357.055. AUTHORIZING AND WITNESSING OF SUPPORTED
2-43 DECISION-MAKING AGREEMENT. (a) A supported decision-making
2-44 agreement must be signed voluntarily, without coercion or undue
2-45 influence, by the adult with a disability and the supporter in the
2-46 presence of two or more subscribing witnesses or a notary public.

2-47 (b) If signed before two witnesses, the attesting witnesses
2-48 must be at least 14 years of age.

2-49 Sec. 1357.056. FORM OF SUPPORTED DECISION-MAKING
2-50 AGREEMENT. (a) Subject to Subsection (b), a supported
2-51 decision-making agreement is valid only if it is in substantially
2-52 the following form:

2-53 SUPPORTED DECISION-MAKING AGREEMENT
2-54 Appointment of Supporter
2-55 I, (insert your name), make this agreement of my own free
2-56 will.

2-57 I agree and designate that: _____
2-58 Name: _____
2-59 Address: _____
2-60 Phone Number: _____
2-61 E-mail Address: _____

2-62 is my supporter. My supporter may help me with making everyday life
2-63 decisions relating to the following:

2-64 Y/N obtaining food, clothing, and shelter
2-65 Y/N taking care of my physical health
2-66 Y/N managing my financial affairs.

2-67 My supporter is not allowed to make decisions for me. To help
2-68 me with my decisions, my supporter may:

2-69 1. Help me access, collect, or obtain information that is

3-1 relevant to a decision, including medical, psychological,
3-2 financial, educational, or treatment records;

3-3 2. Help me understand my options so I can make an informed
3-4 decision; or

3-5 3. Help me communicate my decision to appropriate persons.

3-6 Y/N A release allowing my supporter to see protected
3-7 health information under the Health Insurance Portability and
3-8 Accountability Act of 1996 (Pub. L. No. 104-191) is attached.

3-9 Y/N A release allowing my supporter to see educational
3-10 records under the Family Educational Rights and Privacy Act of 1974
3-11 (20 U.S.C. Section 1232g) is attached.

3-12 Effective Date of Supported Decision-Making Agreement
3-13 This supported decision-making agreement is effective
3-14 immediately and will continue until (insert date) or until the
3-15 agreement is terminated by my supporter or me or by operation of
3-16 law.

3-17 Signed this _____ day of _____, 20____
3-18 Consent of Supporter

3-19 I, (name of supporter), consent to act as a supporter under
3-20 this agreement.

3-21 _____
3-22 (signature of supporter) (printed name of supporter)

3-23 Signature

3-24 _____
3-25 (my signature) (my printed name)

3-26 _____
3-27 (witness 1 signature) (printed name of witness 1)

3-28 _____
3-29 (witness 2 signature) (printed name of witness 2)

3-30 State of _____
3-31 County of _____

3-32 This document was acknowledged before me
3-33 on _____ (date)

3-34 by _____ and _____
3-35 (name of adult with a disability) (name of supporter)

3-36 _____
3-37 (signature of notarial officer)

3-38 (Seal, if any, of notary) _____
3-39 (printed name)

3-40 My commission expires: _____

3-41 **WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY**
3-42 **IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE**
3-43 **OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT THE**
3-44 **ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR EXPLOITED BY**
3-45 **THE SUPPORTER, THE PERSON SHALL REPORT THE ALLEGED ABUSE, NEGLECT,**
3-46 **OR EXPLOITATION TO THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**
3-47 **BY CALLING THE ABUSE HOTLINE AT 1-800-252-5400 OR ONLINE AT**
3-48 **WWW.TXABUSEHOTLINE.ORG.**

3-49 (b) A supported decision-making agreement may be in any form
3-50 not inconsistent with Subsection (a) and the other requirements of
3-51 this chapter.

3-52 **SUBCHAPTER C. DUTY OF CERTAIN PERSONS WITH RESPECT TO AGREEMENT**
3-53 **Sec. 1357.101. RELIANCE ON AGREEMENT; LIMITATION OF**
3-54 **LIABILITY. (a) A person who receives the original or a copy of a**
3-55 **supported decision-making agreement shall rely on the agreement.**

3-56 (b) A person is not subject to criminal or civil liability
3-57 and has not engaged in professional misconduct for an act or
3-58 omission if the act or omission is done in good faith and in
3-59 reliance on a supported decision-making agreement.

3-60 **Sec. 1357.102. REPORTING OF SUSPECTED ABUSE, NEGLECT, OR**
3-61 **EXPLOITATION. If a person who receives a copy of a supported**
3-62 **decision-making agreement or is aware of the existence of a**
3-63 **supported decision-making agreement has cause to believe that the**
3-64 **adult with a disability is being abused, neglected, or exploited by**
3-65 **the supporter, the person shall report the alleged abuse, neglect,**
3-66 **or exploitation to the Department of Family and Protective Services**
3-67 **in accordance with Section 48.051, Human Resources Code.**

3-68 **SECTION 2. This Act takes effect immediately if it receives**
3-69 **a vote of two-thirds of all the members elected to each house, as**

4-1 provided by Section 39, Article III, Texas Constitution. If this
4-2 Act does not receive the vote necessary for immediate effect, this
4-3 Act takes effect September 1, 2015.

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