



## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 21-0323	<b>Date:</b>	September 15, 2021
<b>Prime Sponsors:</b>	Sen. Gardner Rep. Tipper; Young	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** SUPPORTED DECISION-MAKING AGREEMENT

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill allows adults with a disability to enter into a supported decision-making agreement. This bill may decrease state workload on an ongoing basis.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** This fiscal note reflects the enacted bill.

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## Summary of Legislation

This bill allows an adult with a disability to voluntarily enter into a supported decision-making agreement with a member of the supportive community as an alternative for or supplement to a guardianship. The bill outlines the requirements of the agreement and when and how an agreement may be terminated. The agreement may authorize a member of the supportive community to:

- provide supported decision making;
- assist in accessing, collecting, obtaining, and understanding, information relevant to a given life decision (this information must be kept confidential by the member of the supportive community); and
- assist in communicating the adult's decisions to the appropriate persons.

In addition, a person is not subject to any criminal or civil liability and does not engage in professional misconduct for an act or omission if the act or omission is done in good faith. An agreement cannot be used as evidence of incapacity of an adult with a disability.

## **State Revenue**

Starting in FY 2021-22, if the bill results in fewer civil cases filed to appoint a guardian, cash fund revenue to the Judicial Department will decrease. Alternately, if there are more civil cases filed to litigate the enforceability of supported decision-making agreements, cash fund revenue to the Judicial Department will increase. Cash fund revenue related to civil filing is subject to the state's TABOR limit. It is assumed that these impacts will offset each other and any revenue impact will be minimal.

## **State Expenditures**

Starting in FY 2021-22, this bill will impact workload in the Judicial Department and the Office of Public Guardianship, as described below.

**Judicial Department.** The bill will impact the workload of the trial courts in the following ways. First, if adults with disabilities use supported decision-making agreements instead of appointing a guardian, workload to trial courts will decrease. Conversely, to the extent supported decision-making agreements increase litigation regarding the enforceability of the agreements, workload will increase. It is assumed that these impacts will offset each other and any workload impact will be minimal.

**Office of Public Guardianship.** To the extent adults with disabilities enter into supported decision-making agreements in lieu of seeking a public guardian, expenditures and workload to the Office of Public Guardianship may decrease. Currently, the office only operates in the 2<sup>nd</sup> Judicial District (Denver). Because it is unknown how many adults will enter into a support decision-agreement in place of having a public guardian appointed, the fiscal note assumes any potential decrease in appropriations will be handled through the annual budget process.

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by a minimal amount. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

**Federal ARPA funds.** This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

## **Effective Date**

The bill was signed into law by the Governor on April 26, 2021, and took effect on September 7, 2021.

**State and Local Government Contacts**

Counties  
Human Services  
Information Technology

Education  
Judicial  
State

Health Care Policy and Financing  
Office of Public Guardianship