

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 7, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-075 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend reengrossed bill, page 2, lines 11 and 12, strike "IN THE MOST
- 2 EXTREME OF CIRCUMSTANCES FOR AN ADULT WITH DISABILITIES;" and
- 3 substitute "WHEN A LESS RESTRICTIVE ALTERNATIVE WOULD FAIL TO MEET
- 4 THE NEEDS OF THE ADULT WITH A DISABILITY;".

- 5 Page 3, line 4, strike "VOLUNTARY, LESS".

- 6 Page 3, strike lines 5 and 6 and substitute "VOLUNTARY METHOD OF
- 7 DECISION-MAKING THAT, AS APPROPRIATE, MAY ALSO BE USED
- 8 CONCURRENTLY WITH, BUT SUBJECT TO, AN EXISTING GUARDIANSHIP,
- 9 CONSERVATORSHIP, OR POWER OF ATTORNEY;".

- 10 Page 3, line 7, strike "SUPPORTS" and substitute "FACILITATES".

- 11 Page 3, line 9, strike "CREATE" and substitute "RECOGNIZE, CREATE, AND
- 12 MAINTAIN".

- 13 Page 3, line 11, strike "HELP THE" and substitute "ASSIST" and strike
- 14 "MAKE" and substitute "IN MAKING".

- 15 Page 3, lines 15 and 16, strike "GUARDIAN HAVE A" and substitute
- 16 "COURT-APPOINTED GUARDIAN OR A COURT-APPOINTED CONSERVATOR
- 17 HAVE THE".

1 Page 3, line 18, strike "AGREEMENT OR PROCESS;" and substitute
2 "AGREEMENT; AND".

3 Page 3, strike line 19 and substitute:

4 "(h) SUPPORTED DECISION-MAKING AGREEMENTS DO NOT:
5 (I) CREATE A FIDUCIARY RELATIONSHIP BETWEEN AN ADULT WITH
6 A DISABILITY AND A MEMBER OF THE SUPPORTIVE COMMUNITY;

7 (II) ELEVATE A MEMBER OF THE SUPPORTIVE COMMUNITY TO A
8 PERSON IN A POSITION OF TRUST IN REGARD TO THE ADULT WITH A
9 DISABILITY BASED SOLELY ON THE MEMBER OF THE SUPPORTIVE
10 COMMUNITY'S INVOLVEMENT IN THE SUPPORTED DECISION-MAKING
11 AGREEMENT;

12 (III) ALTER, DIMINISH, OR SUPERSEDE THE TERMS OF A
13 COURT-ORDERED GUARDIANSHIP OR CONSERVATORSHIP. A GUARDIAN OR
14 CONSERVATOR HAS THE RIGHT, IF AUTHORIZED BY THE COURT, TO
15 DETERMINE IF A WARD OR PROTECTED PERSON MAY ENTER INTO OR
16 CONTINUE A SUPPORTED DECISION-MAKING AGREEMENT.

17 (IV) AUTHORIZE A MEMBER OF THE SUPPORTIVE COMMUNITY TO
18 OBTAIN OR USE PERSONAL, FINANCIAL, OR CONFIDENTIAL INFORMATION OF
19 THE ADULT WITH A DISABILITY FOR THE MEMBER OF THE SUPPORTIVE
20 COMMUNITY'S OWN PURPOSE OR BENEFIT, OR FOR THE PURPOSE OR BENEFIT
21 OF A THIRD-PARTY; OR

22 (V) SHIELD A MEMBER OF THE SUPPORTIVE COMMUNITY FROM
23 CRIMINAL OR CIVIL LIABILITY FOR ACTS THAT WOULD OTHERWISE BE
24 SUBJECT TO CIVIL OR CRIMINAL LIABILITY, NOTWITHSTANDING SECTION
25 15-14-806 (2); AND".

26 Reletter succeeding paragraph accordingly.

27 Page 3, line 20, strike "ADULTS" and substitute "IN ADDITION TO
28 SUPPORTED DECISION-MAKING, ADULTS".

29 Page 3, line 22, before "PREFERENCES" insert "EXPRESS".

30 Page 3, line 23, strike "FIDUCIARY" and substitute "FINANCIAL".

31 Page 3, line 24, after "GUARDIANSHIP," insert "CONSERVATORSHIP,
32 SPECIAL CONSERVATORSHIP,".

33 Page 4, line 15, strike "AND" and substitute "OR".



- 1 Page 4, line 22, strike "NECESSARY;" and substitute "NECESSARY AND IF
2 SPECIFICALLY REQUESTED BY THE ADULT WITH A DISABILITY;".
- 3 Page 5, lines 1 and 2, strike "A MEMBER OF THE SUPPORTIVE COMMUNITY."
4 and substitute "ONE OR MORE MEMBERS OF THE ADULT WITH A
5 DISABILITY'S SUPPORTIVE COMMUNITY.".
- 6 Page 5, line 6, strike "A MEMBER" and substitute "ONE OR MORE
7 MEMBERS".
- 8 Page 5, line 7, strike "IMPACT" and substitute "ADVERSELY AFFECT".
- 9 Page 5, lines 8 and 9, strike "GUARDIAN PURSUANT TO A COURT-ORDERED
10 GUARDIANSHIP." and substitute "COURT-APPOINTED GUARDIAN OR
11 COURT-APPOINTED CONSERVATOR.".
- 12 Page 5, line 10, strike "AUTHORIZES" and substitute "MAY REQUEST".
- 13 Page 5, line 16, strike "15-14-804," and substitute "15-14-804 AND AT THE
14 SPECIFIC REQUEST OF THE ADULT WITH A DISABILITY,".
- 15 Page 5, line 26, strike "AUTHORIZED" and substitute "REQUESTED".
- 16 Page 5, after line 26 insert:
- 17 "(2) A MEMBER OF THE SUPPORTIVE COMMUNITY SHALL NOT BE
18 ENTITLED TO COMPENSATION OR OTHER CONSIDERATION, IN CASH OR IN
19 KIND, FOR ASSISTANCE PROVIDED TO THE ADULT WITH A DISABILITY FOR
20 THE PURPOSES OF A SUPPORTIVE DECISION-MAKING AGREEMENT.".
- 21 Renumber succeeding subsections accordingly.
- 22 Page 6, line 5, strike "TERMINATION." and substitute "TERMINATION TO
23 ALL PARTIES TO THE SUPPORTED DECISION-MAKING AGREEMENT.".
- 24 Page 6, line 6, after "IS" insert "AUTOMATICALLY".
- 25 Page 6, strike lines 8 through 10 and substitute:
- 26 "(I) AFTER INVESTIGATING A MEMBER OF THE SUPPORTIVE
27 COMMUNITY FOR MISTREATMENT, AS DEFINED IN SECTION 18-6.5-102



1 (10.5), ADULT PROTECTIVE SERVICES FINDS THAT THE ADULT WITH A
2 DISABILITY HAS BEEN MISTREATED BY THE MEMBER OF THE SUPPORTIVE
3 COMMUNITY; OR".

4 Page 6, line 17, strike "OR".

5 Page 6, line 18, strike "CRIME." and substitute "CRIME; OR".

6 Page 6, after line 18 insert:

7 "(D) FOUND TO HAVE COMMITTED THEFT PURSUANT TO SECTION
8 18-4-405."

9 Page 6, line 22, strike "IS ONLY AUTHORIZED TO" and substitute "MAY
10 ONLY".

11 Page 6, line 24, strike "AUTHORIZED" and substitute "MADE".

12 Page 6, line 25, strike "AGREEMENT." and substitute "AGREEMENT AND
13 ONLY WHEN SUCH ASSISTANCE IS SPECIFICALLY REQUESTED BY THE ADULT
14 WITH A DISABILITY."

15 Page 7, strike lines 1 through 9 and substitute "FINANCIAL OR PERSONAL
16 INFORMATION, THE MEMBER OF THE SUPPORTIVE COMMUNITY SHALL KEEP
17 THE INFORMATION CONFIDENTIAL, AS REQUESTED BY THE ADULT WITH A
18 DISABILITY."

19 Page 7, after line 9 insert:

20 "(3) A MEMBER OF THE SUPPORTIVE COMMUNITY WHO OBTAINS
21 INFORMATION PURSUANT TO THIS SECTION MAY ONLY USE SUCH
22 INFORMATION FOR THE SPECIFIC PURPOSES REQUESTED BY THE ADULT
23 WITH A DISABILITY AND ANY MISUSE OF THE INFORMATION IS SUBJECT TO
24 CRIMINAL AND CIVIL LIABILITY."

25 Renumber succeeding subsection accordingly.

26 Page 7, line 12, after "INFORMATION" insert "ON THEIR OWN".

27 Page 7, line 21, after "DECISIONS" insert "THE ADULT WITH A DISABILITY
28 REQUESTS".



- 1 Page 7, line 22, strike "MAY" and substitute "TO".
- 2 Page 7, line 24, strike "DUTIES," and substitute "AGREEMENT TERMS," and
- 3 strike "DUTY" and substitute "AGREEMENT TERM".
- 4 Page 7, strike lines 25 and 26 and substitute:

5 "(I) PROVIDE INFORMATION AS REQUESTED BY THE ADULT WITH A
6 DISABILITY;"
- 7 Page 8, line 4, after "DECISION;" insert "AND".
- 8 Page 8, strike lines 5 and 6.
- 9 Renumber succeeding subparagraph accordingly.
- 10 Page 8, line 21, strike "THE MEMBER" and substitute "EACH MEMBER".

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