

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0323.01 Shelby Ross x4510

**SENATE BILL 21-075**

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**SENATE SPONSORSHIP**

**Gardner and Ginal**, Bridges, Buckner, Cooke, Danielson, Fields, Garcia, Gonzales, Hansen, Hisey, Holbert, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Lundeen, Moreno, Pettersen, Priola, Rankin, Rodriguez, Simpson, Smallwood, Sonnenberg, Story, Winter, Woodward, Zenzinger

**HOUSE SPONSORSHIP**

**Tipper and Young**,

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**Senate Committees**  
Judiciary

**House Committees**  
Judiciary

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**A BILL FOR AN ACT**

101      **CONCERNING SUPPORTED DECISION-MAKING AGREEMENTS FOR**  
102                    **ADULTS WITH DISABILITIES, AND, IN CONNECTION THEREWITH,**  
103                    **AUTHORIZING SUCH AGREEMENTS AS AN ALTERNATIVE FOR OR**  
104                    **SUPPLEMENT TO A GUARDIANSHIP.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill allows an adult with a disability (adult) to enter into a supported decision-making agreement (agreement) with a member of the supportive community. Under the agreement, the adult authorizes the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
March 10, 2021

SENATE  
Amended 2nd Reading  
March 9, 2021

member of the supportive community to do any of the following:

- Provide supported decision-making, including assistance in understanding the options, responsibilities, and consequences of the adult's life decisions, without making those decisions on behalf of the adult;
- Assist the adult in accessing, collecting, obtaining, and understanding information that is relevant to a given life decision from any person; and
- Assist the adult in communicating the adult's decisions to appropriate persons when expressly authorized by the adult.

The agreement may be in any form but is only valid if it contains certain information and is signed by the adult and the member of the supportive community in the presence of 2 or more attesting witnesses who are 18 years of age or older, or a notary public.

The bill requires any person who receives the original or a copy of the agreement to rely on the agreement. A person is not subject to criminal and civil liability and does not engage in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on an agreement.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 8 to article  
3 14 of title 15 as follows:

4 **PART 8**

5 **SUPPORTED DECISION-MAKING AGREEMENT FOR**  
6 **ADULTS WITH A DISABILITY**

7 **15-14-801. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
8 FINDS AND DECLARES THAT:

9 (a) GUARDIANSHIP CONSTITUTES ONE OF THE MOST RESTRICTIVE  
10 OPTIONS AVAILABLE TO ADULTS WITH DISABILITIES AND THEIR FAMILIES;

11 (b) GUARDIANSHIP SHOULD BE EMPLOYED ONLY WHEN A LESS  
12 RESTRICTIVE ALTERNATIVE WOULD FAIL TO MEET THE NEEDS OF THE  
13 ADULT WITH A DISABILITY;

14 (c) ADULTS WITH DISABILITIES ARE PRESUMED COMPETENT AND

1 HAVE THE CAPACITY TO FACILITATE THE EXERCISE OF DECISIONS  
2 REGARDING THEIR DAY-TO-DAY HEALTH, SAFETY, WELFARE, OR FINANCIAL  
3 AFFAIRS, UNLESS OTHERWISE DETERMINED THROUGH LEGAL PROCEEDINGS;

4 (d) SUPPORTED DECISION-MAKING, AS DEFINED IN SECTION  
5 15-14-802 (5), OFFERS ADULTS WITH DISABILITIES A [REDACTED] VOLUNTARY  
6 METHOD OF DECISION-MAKING THAT, AS APPROPRIATE, MAY ALSO BE USED  
7 CONCURRENTLY WITH, BUT SUBJECT TO, AN EXISTING GUARDIANSHIP,  
8 CONSERVATORSHIP, OR POWER OF ATTORNEY;

9 (e) SUPPORTED DECISION-MAKING FACILITATES ADULTS WITH  
10 DISABILITIES IN MAINTAINING DECISION-MAKING AUTHORITY OVER THEIR  
11 OWN LIVES WHILE ALSO ENCOURAGING THESE ADULTS TO RECOGNIZE,  
12 CREATE, AND MAINTAIN SUPPORTIVE COMMUNITIES, THROUGH SUPPORTED  
13 DECISION-MAKING TEAMS, THAT CAN ASSIST ADULTS WITH DISABILITIES IN  
14 MAKING INFORMED DECISIONS;

15 (f) ADULTS WITH DISABILITIES SHOULD HAVE ACCESS TO  
16 OPPORTUNITIES TO EXPERIENCE AND PRACTICE DECISION-MAKING SKILLS;

17 (g) ADULTS WITH DISABILITIES WHO DO NOT HAVE A  
18 COURT-APPOINTED GUARDIAN OR A COURT-APPOINTED CONSERVATOR  
19 HAVE THE RIGHT TO INDEPENDENTLY MAKE ANY DECISION WITHOUT ANY  
20 MEMBER OF THE SUPPORTIVE COMMUNITY, REGARDLESS OF HAVING  
21 ENTERED INTO A SUPPORTED DECISION-MAKING AGREEMENT; AND

22 (h) SUPPORTED DECISION-MAKING AGREEMENTS DO NOT:

23 (I) CREATE A FIDUCIARY RELATIONSHIP BETWEEN AN ADULT WITH  
24 A DISABILITY AND A MEMBER OF THE SUPPORTIVE COMMUNITY;

25 (II) ELEVATE A MEMBER OF THE SUPPORTIVE COMMUNITY TO A  
26 PERSON IN A POSITION OF TRUST IN REGARD TO THE ADULT WITH A  
27 DISABILITY BASED SOLELY ON THE MEMBER OF THE SUPPORTIVE

1 COMMUNITY'S INVOLVEMENT IN THE SUPPORTED DECISION-MAKING  
2 AGREEMENT;

3 (III) ALTER, DIMINISH, OR SUPERSEDE THE TERMS OF A  
4 COURT-ORDERED GUARDIANSHIP OR CONSERVATORSHIP. A GUARDIAN OR  
5 CONSERVATOR HAS THE RIGHT, IF AUTHORIZED BY THE COURT, TO  
6 DETERMINE IF A WARD OR PROTECTED PERSON MAY ENTER INTO OR  
7 CONTINUE A SUPPORTED DECISION-MAKING AGREEMENT.

8 (IV) AUTHORIZE A MEMBER OF THE SUPPORTIVE COMMUNITY TO  
9 OBTAIN OR USE PERSONAL, FINANCIAL, OR CONFIDENTIAL INFORMATION OF  
10 THE ADULT WITH A DISABILITY FOR THE MEMBER OF THE SUPPORTIVE  
11 COMMUNITY'S OWN PURPOSE OR BENEFIT, OR FOR THE PURPOSE OR BENEFIT  
12 OF A THIRD-PARTY; OR

13 (V) SHIELD A MEMBER OF THE SUPPORTIVE COMMUNITY FROM  
14 CRIMINAL OR CIVIL LIABILITY FOR ACTS THAT WOULD OTHERWISE BE  
15 SUBJECT TO CIVIL OR CRIMINAL LIABILITY, NOTWITHSTANDING SECTION  
16 15-14-806 (2); AND

17 (i) IN ADDITION TO SUPPORTED DECISION-MAKING, ADULTS WITH  
18 DISABILITIES SHOULD HAVE A VARIETY OF FORMAL AND INFORMAL  
19 PROCESSES AVAILABLE TO MAKE DECISIONS AND EXPRESS PREFERENCES  
20 OF CHOICES, INCLUDING BUT NOT LIMITED TO MEDICAL AND FINANCIAL  
21 POWERS OF ATTORNEY, GUARDIANSHIP, LIMITED GUARDIANSHIP,  
22 CONSERVATORSHIP, SPECIAL CONSERVATORSHIP, RELEASE OF  
23 INFORMATION FORMS, AND REPRESENTATIVE PAYEES.

24 **15-14-802. Definitions.** AS USED IN THIS PART 8, UNLESS THE  
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF  
27 AGE OR OLDER, OR AN EMANCIPATED MINOR.

1 (2) "ASSIST" MEANS HELPING AN ADULT WITH A DISABILITY WEIGH  
2 THE PROS AND CONS OF A DECISION AND UNDERSTAND THE POSSIBLE  
3 OUTCOMES OF MAKING SUCH A DECISION.

4 (3) "DISABILITY" MEANS A PHYSICAL OR MENTAL IMPAIRMENT  
5 THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES OR A  
6 RECORD OF SUCH AN IMPAIRMENT.

7 (4) "MEMBER OF THE SUPPORTIVE COMMUNITY" MEANS A PERSON  
8 WHOM THE ADULT HAS IDENTIFIED, WHOM THE ADULT TRUSTS TO ENGAGE  
9 IN THE SUPPORTED DECISION-MAKING PROCESS, AND WHO UNDERSTANDS  
10 THE ADULT'S DESIRES AND PERSONAL VALUES.

11 (5) "SUPPORTED DECISION-MAKING" MEANS A PROCESS IN WHICH  
12 AN ADULT WITH A DISABILITY HAS MADE OR IS MAKING DECISIONS BY  
13 USING FRIENDS, FAMILY MEMBERS, PROFESSIONALS, OR OTHER PEOPLE THE  
14 ADULT WITH A DISABILITY TRUSTS TO:

15 (a) HELP UNDERSTAND THE ISSUES AND CHOICES;

16 (b) ANSWER QUESTIONS;

17 (c) PROVIDE EXPLANATIONS IN A LANGUAGE THE ADULT WITH A  
18 DISABILITY UNDERSTANDS;

19 (d) COMMUNICATE THE ADULT WITH A DISABILITY'S DECISION TO  
20 OTHERS, IF NECESSARY AND IF SPECIFICALLY REQUESTED BY THE ADULT  
21 WITH A DISABILITY; OR

22 (e) FACILITATE THE EXERCISE OF DECISIONS REGARDING THE  
23 ADULT WITH A DISABILITY'S DAY-TO-DAY HEALTH, SAFETY, WELFARE, OR  
24 FINANCIAL AFFAIRS.

25 (6) "SUPPORTED DECISION-MAKING AGREEMENT" OR  
26 "AGREEMENT" MEANS A VOLUNTARY AGREEMENT ENTERED INTO  
27 PURSUANT TO THIS PART 8 BETWEEN AN ADULT WITH A DISABILITY AND

1 ONE OR MORE MEMBERS OF THE ADULT WITH A DISABILITY'S SUPPORTIVE  
2 COMMUNITY.     

3 **15-14-803. Supported decision-making agreement - term.**

4 (1) AN ADULT WITH A DISABILITY MAY VOLUNTARILY, WITHOUT UNDUE  
5 INFLUENCE OR COERCION, ENTER INTO A SUPPORTED DECISION-MAKING  
6 AGREEMENT WITH ONE OR MORE MEMBERS OF THE SUPPORTIVE  
7 COMMUNITY. THE SUPPORTED DECISION-MAKING AGREEMENT DOES NOT  
8 ADVERSELY AFFECT THE DECISION-MAKING AUTHORITY GRANTED TO A  
9 COURT-APPOINTED GUARDIAN OR COURT-APPOINTED CONSERVATOR.  
10 UNDER THE AGREEMENT, THE ADULT WITH A DISABILITY MAY REQUEST  
11 THE MEMBER OF THE SUPPORTIVE COMMUNITY TO DO ANY OR ALL OF THE  
12 FOLLOWING:

13 (a) PROVIDE SUPPORTED DECISION-MAKING, INCLUDING  
14 ASSISTANCE IN UNDERSTANDING THE OPTIONS, RESPONSIBILITIES, AND  
15 CONSEQUENCES OF THE ADULT'S LIFE DECISIONS, WITHOUT MAKING THOSE  
16 DECISIONS ON BEHALF OF THE ADULT WITH A DISABILITY;

17 (b) PURSUANT TO SECTION 15-14-804 AND AT THE SPECIFIC  
18 REQUEST OF THE ADULT WITH A DISABILITY, ASSIST THE ADULT WITH A  
19 DISABILITY IN ACCESSING, COLLECTING, OBTAINING, AND UNDERSTANDING  
20 INFORMATION THAT IS RELEVANT TO A GIVEN LIFE DECISION FROM ANY  
21 PERSON, INCLUDING BUT NOT LIMITED TO MEDICAL, PSYCHOLOGICAL,  
22 FINANCIAL, EDUCATIONAL, OCCUPATIONAL, AND SOCIAL DECISIONS;  
23 TREATMENT RECORDS; HOW AND IN WHAT RELATIONSHIPS THE ADULT  
24 WITH A DISABILITY CHOOSES TO ENGAGE; AND INFORMATION ABOUT HOW  
25 A SUPPORTIVE COMMUNITY IS CHOSEN; OR

26 (c) ASSIST THE ADULT WITH A DISABILITY IN COMMUNICATING THE  
27 ADULT'S DECISIONS TO APPROPRIATE PERSONS WHEN EXPRESSLY

1 REQUESTED BY THE ADULT WITH A DISABILITY.

2 (2) A MEMBER OF THE SUPPORTIVE COMMUNITY SHALL NOT BE  
3 ENTITLED TO COMPENSATION OR OTHER CONSIDERATION, IN CASH OR IN  
4 KIND, FOR ASSISTANCE PROVIDED TO THE ADULT WITH A DISABILITY FOR  
5 THE PURPOSES OF A SUPPORTIVE DECISION-MAKING AGREEMENT.

6 (3) (a) THE SUPPORTED DECISION-MAKING AGREEMENT IS  
7 EFFECTIVE UNTIL TERMINATED BY EITHER THE ADULT WITH A DISABILITY  
8 OR THE MEMBER OF THE SUPPORTIVE COMMUNITY, OR BY THE TERMS OF  
9 THE AGREEMENT. ANY PARTY MAY CHOOSE TO TERMINATE THE  
10 AGREEMENT AT ANY POINT BY PROVIDING WRITTEN OR VERBAL NOTICE OF  
11 THE TERMINATION TO ALL PARTIES TO THE SUPPORTED DECISION-MAKING  
12 AGREEMENT.

13 (b) THE SUPPORTED DECISION-MAKING AGREEMENT IS  
14 AUTOMATICALLY TERMINATED IF:

15 (I) AFTER INVESTIGATING A MEMBER OF THE SUPPORTIVE  
16 COMMUNITY FOR MISTREATMENT, AS DEFINED IN SECTION 18-6.5-102  
17 (10.5), ADULT PROTECTIVE SERVICES FINDS THAT THE ADULT WITH A  
18 DISABILITY HAS BEEN MISTREATED BY THE MEMBER OF THE SUPPORTIVE  
19 COMMUNITY; OR

20 (II) THE MEMBER OF THE SUPPORTIVE COMMUNITY IS:

21 (A) SUBSTANTIATED IN A CASE OF MISTREATMENT OF THE ADULT  
22 WITH A DISABILITY, ANY OTHER PERSON WITH A DISABILITY, OR ANY  
23 AT-RISK PERSON, AS DEFINED IN SECTION 18-6.5-102 (4.5);

24 (B) CONVICTED OF A CRIME AGAINST AN AT-RISK PERSON  
25 PURSUANT TO SECTION 18-6.5-103, OR OTHERWISE INTENTIONALLY  
26 CAUSED PHYSICAL HARM TO ANOTHER; ■

27 (C) CONVICTED OF A FINANCIAL CRIME; OR

1 (D) FOUND TO HAVE COMMITTED THEFT PURSUANT TO SECTION  
2 18-4-405.

3 (4) A SUPPORTED DECISION-MAKING AGREEMENT CANNOT BE USED  
4 AS EVIDENCE OF INCAPACITY OF THE ADULT WITH A DISABILITY.

5 **15-14-804. Access to personal information.** (1) THE MEMBER OF  
6 THE SUPPORTIVE COMMUNITY MAY ONLY ASSIST THE ADULT WITH A  
7 DISABILITY IN ACCESSING, COLLECTING, OR OBTAINING INFORMATION  
8 THAT IS RELEVANT TO A DECISION MADE PURSUANT TO THE SUPPORTED  
9 DECISION-MAKING AGREEMENT AND ONLY WHEN SUCH ASSISTANCE IS  
10 SPECIFICALLY REQUESTED BY THE ADULT WITH A DISABILITY.

11 (2) IF THE MEMBER OF THE SUPPORTIVE COMMUNITY ASSISTS THE  
12 ADULT WITH A DISABILITY IN ACCESSING, COLLECTING, OR OBTAINING  
13 FINANCIAL OR PERSONAL INFORMATION, THE MEMBER OF THE SUPPORTIVE  
14 COMMUNITY SHALL KEEP THE INFORMATION CONFIDENTIAL, AS  
15 REQUESTED BY THE ADULT WITH A DISABILITY.

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

21 (4) THE EXISTENCE OF A SUPPORTED DECISION-MAKING  
22 AGREEMENT DOES NOT PRECLUDE AN ADULT WITH A DISABILITY FROM  
23 SEEKING PERSONAL INFORMATION ON THEIR OWN WITHOUT THE  
24 ASSISTANCE OF THE MEMBER OF THE SUPPORTIVE COMMUNITY.

25 **15-14-805. Agreement requirements - signature - witnesses or**  
26 **notary public.** (1) A SUPPORTED DECISION-MAKING AGREEMENT MAY BE  
27 IN ANY FORM BUT IS VALID ONLY IF IT CONTAINS, AT A MINIMUM, THE



1 FOLLOWING:

2 (a) THE NAME OF THE ADULT WITH A DISABILITY;

3 (b) THE NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS  
4 OF THE MEMBER OF THE SUPPORTIVE COMMUNITY, IF APPLICABLE;

5 (c) A LIST OF DECISIONS THE ADULT WITH A DISABILITY REQUESTS  
6 THE MEMBER OF THE SUPPORTIVE COMMUNITY TO ADVISE THE ADULT WITH  
7 A DISABILITY ON;

8 (d) A DESCRIPTION OF THE MEMBER OF THE SUPPORTIVE  
9 COMMUNITY'S AGREEMENT TERMS, INCLUDING, AT A MINIMUM, THE  
10 AGREEMENT TERM TO:

11 (I) PROVIDE INFORMATION AS REQUESTED BY THE ADULT WITH A  
12 DISABILITY;

13 (II) RESPECT THAT THE FINAL AND ULTIMATE DECISION IS THE  
14 ADULT WITH THE DISABILITY'S AND NOT THE MEMBER OF THE SUPPORTIVE  
15 COMMUNITY'S;

16 (III) NOT COERCE OR MANIPULATE THE ADULT WITH THE  
17 DISABILITY INTO MAKING ANY DECISION; AND ==

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19 (IV) PROVIDE THE MOST UP-TO-DATE AND RELEVANT  
20 INFORMATION TO THE ADULT WITH THE DISABILITY BASED ON ALL THE  
21 AVAILABLE AND KNOWN INFORMATION THE MEMBER OF THE SUPPORTIVE  
22 COMMUNITY HAS.

23 (e) A NOTICE THAT ANY MANDATORY REPORTER, AS DESCRIBED IN  
24 SECTION 18-6.5-108, WHO IS RELYING ON THE SUPPORTED  
25 DECISION-MAKING AGREEMENT AND HAS CAUSE TO BELIEVE THAT THE  
26 ADULT WITH A DISABILITY IS BEING MISTREATED, AS DEFINED IN SECTION  
27 18-6.5-102 (10.5), BY THE MEMBER OF THE SUPPORTIVE COMMUNITY,

1 SHALL REPORT THE ALLEGED MISTREATMENT TO ADULT PROTECTIVE  
2 SERVICES; AND

3 (f) THE DAY, MONTH, AND YEAR THE AGREEMENT WAS ENTERED  
4 INTO.

5 (2) A SUPPORTED DECISION-MAKING AGREEMENT MUST BE SIGNED  
6 VOLUNTARILY, WITHOUT COERCION OR UNDUE INFLUENCE, BY THE ADULT  
7 WITH A DISABILITY AND EACH MEMBER OF THE SUPPORTIVE COMMUNITY  
8 IN THE PRESENCE OF TWO OR MORE ATTESTING AND DISINTERESTED  
9 WITNESSES WHO ARE EIGHTEEN YEARS OF AGE OR OLDER, OR A NOTARY  
10 PUBLIC.

11 **15-14-806. Reliance on agreement - limitation of liability.**

12 (1) A PERSON WHO RECEIVES THE ORIGINAL OR A COPY OF THE SUPPORTED  
13 DECISION-MAKING AGREEMENT SHALL RELY ON THE AGREEMENT AND ITS  
14 AUTHORITY TO ASSIST AS PRESENTED.

15 (2) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY  
16 AND DOES NOT ENGAGE IN PROFESSIONAL MISCONDUCT FOR AN ACT OR  
17 OMISSION IF THE ACT OR OMISSION IS DONE IN GOOD FAITH AND IN  
18 RELIANCE ON A SUPPORTED DECISION-MAKING AGREEMENT AND ITS  
19 AUTHORITY TO ASSIST AS PRESENTED.

20 **SECTION 2. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly; except  
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
24 of the state constitution against this act or an item, section, or part of this  
25 act within such period, then the act, item, section, or part will not take  
26 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.