



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 21-0323	Date:	February 16, 2021
Prime Sponsors:	Sen. Gardner Rep. Tipper; Young	Bill Status:	Senate Judiciary
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Bill Topic: SUPPORTED DECISION-MAKING AGREEMENT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input 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.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduce bill.

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 2nd 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. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	Education	Health Care Policy and Financing
Human Services	Judicial	Office of Public Guardianship
Information Technology	State	