

CHAPTER.....

AN ACT relating to written agreements; enacting provisions governing supported decision-making agreements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill establishes the Supported Decision-Making Act, which authorizes an adult with a disability to enter into a supported decision-making agreement in which he or she designates one or more supporters to provide assistance when making decisions or engaging in certain other activities. Section 12 of this bill authorizes an adult to enter into a supported decision-making agreement at any time if the adult enters into the agreement voluntarily and understands the nature and effect of the agreement. Section 12 also sets forth the requirements for a supported decision-making agreement and authorizes such an agreement to be terminated in writing or verbally, and with notice to the other parties. Sections 13 and 14 of this bill establish the activities in which a supporter is authorized to engage.

Section 15 of this bill prohibits the existence of a supported decision-making agreement from being used as evidence of an adult’s incapacity. **Section 16** of this bill provides that a decision or request made or communicated by an adult with the assistance of a supporter must, for the purposes of any provision of law, be recognized as the decision or request of the adult.

Section 17 of this bill authorizes any person who is not a party to a supported decision-making agreement to act in reliance on the agreement if the person acts in good faith and without knowledge of certain information affecting the validity of the agreement.

Section 18 of this bill clarifies that the provisions of the Supported Decision-Making Act must not be construed to affect the requirement of any person to report the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 162A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *Sections 2 to 18, inclusive, of this act may be cited as the Supported Decision-Making Act.*

Sec. 3. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Adult” means a natural person who is 18 years of age or older.*



Sec. 5. *“Affairs” means personal, health care or financial matters arising in the course of activities of daily living, including, without limitation:*

1. Matters in which an adult makes decisions relating to his or her health, including, without limitation:

(a) Monitoring the adult’s health;

(b) Obtaining, scheduling and coordinating health and support services;

(c) Understanding health care information and options; and

(d) Making personal decisions to provide for the adult’s care and comfort.

2. Financial matters in which an adult manages his or her income and assets and the use thereof for clothing, support, care, comfort, education, shelter or the payment of his or her liabilities.

Sec. 6. *“Person” means a natural person, health care facility, provider of health care, corporation, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 7. *“Principal” means an adult who seeks to enter, or has entered, into a supported decision-making agreement with one or more supporters pursuant to sections 2 to 18, inclusive, of this act.*

Sec. 8. *“Support services” means a coordinated system of social and other services that are supplied by private, state, institutional or community providers and are designed to help maintain the independence of an adult, including, without limitation:*

1. Homemaking services, such as house repair, cleaning, laundry, shopping and providing meals.

2. Companion services, such as transportation and the facilitation of written, oral and electronic communication.

3. Medical services.

4. Visiting nurse and attendant care.

5. Physical and psychosocial assessments.

6. Financial assessments and advisement relating to banking, taxes, loans, investments or the management of real property.

7. Legal assessments and advisement.

8. Educational services, including, without limitation, educational assessments and advisement.

9. Personal care services, including, without limitation, assistance with daily activities such as bathing, dressing and eating.



10. *Care planning.*

11. *Residential, employment or day program services and supports, including, without limitation, training or career planning.*

12. *Other services necessary to maintain the independence of an adult.*

Sec. 9. *“Supported decision-making agreement” means an agreement between a principal and one or more supporters that is entered into pursuant to sections 2 to 18, inclusive, of this act.*

Sec. 10. *“Supporter” means a person who is named in a supported decision-making agreement to provide specified assistance to a principal.*

Sec. 11. 1. *The purpose of sections 2 to 18, inclusive, of this act is to:*

(a) *Provide person-centered and directed assistance to an adult with a disability to gather and assess information, make informed decisions and communicate decisions;*

(b) *Give supporters legal status to be with such an adult and participate in discussions with others when the adult is making decisions or attempting to obtain information; and*

(c) *Enable supporters to assist in making and communicating decisions for such an adult but not substitute as the decision-maker for the adult.*

2. *Sections 2 to 18, inclusive, of this act must be interpreted in accordance with the following principles:*

(a) *An adult should be able to live in the manner in which he or she wishes and to accept or refuse support, assistance or protection as long as the adult does not harm others and is capable of making decisions about such matters;*

(b) *An adult should be able to be informed about and, to the best of his or her ability, participate in the management of his or her affairs;*

(c) *An adult should receive the most effective, yet least restrictive and intrusive, form of support, assistance or protection when the adult is unable to manage his or her affairs alone; and*

(d) *The values, beliefs, wishes, cultural norms and traditions that an adult holds should be respected in managing his or her affairs.*

Sec. 12. 1. *An adult may enter into a supported decision-making agreement at any time if the adult:*

(a) *Enters into the agreement voluntarily and without coercion or undue influence; and*

(b) *Understands the nature and effect of the agreement.*



2. *A supported decision-making agreement must:*

(a) *Be in writing;*

(b) *Be dated;*

(c) *Designate one or more supporters;*

(d) *List the types of decisions with which the supporter is authorized to assist the principal;*

(e) *List the types of decisions, if any, with which the supporter is not authorized to assist the principal; and*

(f) *Be signed by each party to the agreement in the presence of at least two adult witnesses.*

3. *A principal or a supporter may terminate a supported decision-making agreement at any time, either verbally or in writing, and with notice to the other parties to the agreement.*

Sec. 13. 1. *Except as otherwise provided in a supported decision-making agreement and subsection 2, a supporter may do all of the following:*

(a) *Assist the principal in understanding information, options, responsibilities and consequences of the principal's life decisions, including, without limitation, decisions relating to the principal's affairs or supportive services.*

(b) *Help the principal access, obtain and understand any information that is relevant to any given life decision, including, without limitation, medical, psychological, financial or educational decisions, or any treatment records or records necessary to manage the principal's affairs or support services.*

(c) *Assist the principal in finding, obtaining, making appointments for and implementing the principal's support services or plans for support services.*

(d) *Help the principal monitor information about the principal's affairs or support services, including, without limitation, keeping track of future necessary or recommended services.*

(e) *Ascertain the wishes and decisions of the principal, assist in communicating those wishes and decisions to other persons, and advocate to ensure that the wishes and decisions of the principal are implemented.*

2. *A supporter is prohibited from doing any of the following:*

(a) *Exerting undue influence upon, or making decisions on behalf of, the principal.*

(b) *Obtaining, without the consent of the principal, information that is not reasonably related to matters with which the supporter is authorized to assist the principal pursuant to the supported decision-making agreement.*



(c) Using, without the consent of the principal, information acquired for a purpose other than assisting the principal to make a decision pursuant to the supported decision-making agreement.

3. A supporter shall act with the care, competence and diligence ordinarily exercised by persons in similar circumstances, with due regard to the supporter's possession or lack of special skills or expertise.

Sec. 14. *1. In addition to the activities set forth in section 13 of this act, a supporter may assist the principal with obtaining any information to which the principal is entitled, including, without limitation, a signed and dated specific consent, protected health information under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, or educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.*

2. A supporter shall ensure that all information collected on behalf of a principal pursuant to this section is:

- (a) Kept privileged and confidential, as applicable;*
- (b) Not subject to unauthorized access, use or disclosure; and*
- (c) Properly disposed of when appropriate.*

Sec. 15. *The existence of a supported decision-making agreement that is entered into by an adult and one or more supporters pursuant to sections 2 to 18, inclusive, of this act may not be used as evidence of the adult's incapacity and does not preclude the ability of the adult to act independently of the agreement.*

Sec. 16. *A decision or request made or communicated by a principal with the assistance of a supporter in accordance with sections 2 to 18, inclusive, of this act must, for the purposes of any provision of law, be recognized as the decision or request of the principal and may be enforced by the principal or supporter in law or equity on the same basis as a decision or request of the principal.*

Sec. 17. *Any person who is not a party to a supported decision-making agreement, including, without limitation, a provider of health care or provider of financial services, that in good faith accepts a supported decision-making agreement:*

1. Without actual knowledge that any of the signatures thereon is not genuine may rely upon the presumption that such a signature is genuine.

2. Without actual knowledge that the supported decision-making agreement or the purported supporter's authority is void,



invalid or terminated may rely upon the supported decision-making agreement as if the agreement and supporter's authority are genuine, valid and still in effect.

3. Is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the supported decision-making agreement or for following the direction of a supporter named in the supported decision-making agreement.

Sec. 18. *1. The provisions of sections 2 to 18, inclusive, of this act must not be construed to affect the requirement of any person to report the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person as provided in NRS 200.5091 to 200.50995, inclusive.*

2. As used in this section, the words and terms defined in NRS 200.5091 to 200.50995, inclusive, have the meanings ascribed to them in those sections.

Sec. 19. This act becomes effective on July 1, 2019.



