

SB0559/973621/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 559
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, strike “authorizing” and substitute “recognizing the right of”.

AMENDMENT NO. 2

On page 3, in line 25, after “(1)” insert “(I)”.

On page 4, in line 3, strike “(2)” and substitute “(II)”; after line 5, insert:

“(2) A SUPPORTED DECISION-MAKING AGREEMENT OR ANY PROVISION OF THE AGREEMENT DOES NOT:

(I) SUPPLANT THE AUTHORITY OF AN AGENT UNDER A POWER OF ATTORNEY EXECUTED IN ACCORDANCE WITH TITLE 17 OF THIS ARTICLE OR AN ADVANCE DIRECTIVE EXECUTED IN ACCORDANCE WITH TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE; OR

(II) SUPPLANT OR GRANT AUTHORITY OR AGENCY POWERS CONTEMPLATED BY A POWER OF ATTORNEY OR AN ADVANCE DIRECTIVE.”;

and in line 17, after “SUPPORT” insert “AND ADVOCACY”.

On page 5, in line 13, strike “AND”; and in line 19, after “DISCLOSURE” insert “;
AND”

(7) (I) DELIVER A COPY OF THE SUPPORTED DECISION-MAKING AGREEMENT TO ANY DULY APPOINTED GUARDIAN OF THE PERSON OR PROPERTY OF THE ADULT; AND

(II) 1. MAKE A GOOD FAITH EFFORT TO DETERMINE IF THE ADULT HAS A FULLY EXECUTED POWER OF ATTORNEY, ADVANCE DIRECTIVE, OR REVOCABLE TRUST AGREEMENT; AND

2. UNLESS THE ADULT EXPRESSLY OBJECTS, DELIVER A COPY OF THE SUPPORTED DECISION-MAKING AGREEMENT TO ANY AGENT DESIGNATED UNDER A POWER OF ATTORNEY OR AN ADVANCE DIRECTIVE OR ANY TRUSTEE UNDER A REVOCABLE TRUST AGREEMENT".

On page 6, strike beginning with "WITHOUT" in line 3 down through "DECISION" in line 5; and in line 15, after "ORDER" insert "OR A PROTECTIVE ORDER".

On page 7, in line 2, after "DOCUMENTED" insert "IN WRITING"; after line 16, insert:

"(9) STATE THAT:

(I) THE SUPPORTER OR SUPPORTERS MAY NOT MAKE DECISIONS OR EFFECTUATE TRANSACTIONS FOR THE ADULT; AND

(II) THE SUPPORTED DECISION-MAKING AGREEMENT OR ANY PROVISION OF THE AGREEMENT DOES NOT:

1. AUTHORIZE THE SUPPORTER OR SUPPORTERS TO ACT ON BEHALF OF THE ADULT;

2. SUPPLANT THE AUTHORITY OF AN AGENT UNDER A POWER OF ATTORNEY EXECUTED IN ACCORDANCE WITH TITLE 17 OF THIS ARTICLE OR AN ADVANCE DIRECTIVE EXECUTED IN ACCORDANCE WITH TITLE 5, SUBTITLE 6 OF THE HEALTH – GENERAL ARTICLE; OR

3. SUPPLANT OR GRANT AUTHORITY OR AGENCY POWERS CONTEMPLATED BY A POWER OF ATTORNEY OR AN ADVANCE DIRECTIVE;;

in lines 17 and 21, strike “(9)” and “(10)”, respectively, and substitute “(10)” and “(11)”, respectively; in line 20, strike “AND”; in line 21, after “BE” insert “SIGNED BY THE ADULT AND THE SUPPORTER OR SUPPORTERS, WITH EACH SIGNATURE”; and in line 24, after “AGREEMENT” insert “; AND”

(12) IF THE ADULT HAS A FULLY EXECUTED POWER OF ATTORNEY, ADVANCE DIRECTIVE, OR REVOCABLE TRUST AGREEMENT AND THE ADULT DOES NOT EXPRESSLY OBJECT, DELIVER A COPY OF THE SUPPORTED DECISION-MAKING AGREEMENT TO THE AGENT DESIGNATED UNDER THE POWER OF ATTORNEY OR ADVANCE DIRECTIVE OR ANY TRUSTEE UNDER THE REVOCABLE TRUST AGREEMENT”.

On page 8, strike beginning with “WHO” in line 9 down through “AGREEMENT” in line 12; in line 14, strike “COMPLYING” and substitute “IF THE THIRD PARTY ACTED IN GOOD FAITH RELIANCE ON A DECISION MADE BY AN ADULT UTILIZING A SUPPORTED DECISION-MAKING AGREEMENT, COMPLYING”; in line 15, strike “BASED ON AN” and substitute “OR OTHERWISE COMPLYING WITH A SUPPORTED DECISION-MAKING AGREEMENT BASED ON A GOOD FAITH”; in line 18, after “DECLINING” insert “TO HONOR A DECISION MADE BY AN ADULT UTILIZING A SUPPORTED DECISION-MAKING AGREEMENT OR FAILING”; and in line 19, strike “ACTUAL KNOWLEDGE” and substitute “A REASONABLE GOOD FAITH BELIEF”.