

By Senator Gruters

23-00214B-21

20211010__

1 A bill to be entitled
2 An act relating to supported decision-making; amending
3 s. 393.12, F.S.; requiring that petitions submitted in
4 support of appointment of a guardian advocate state
5 the petitioner's efforts to use alternatives to
6 guardianship before seeking such appointment;
7 requiring courts to determine whether a person with a
8 developmental disability has executed a supported
9 decision-making agreement in proceedings in which a
10 guardian advocate is appointed; requiring courts to
11 specify in orders any portion of an agreement which is
12 suspended by the court; prohibiting such suspensions
13 unless the court makes certain determinations;
14 amending s. 744.102, F.S.; defining the term
15 "alternative to guardianship"; amending s. 744.3201,
16 F.S.; requiring that petitions submitted in support of
17 a determination of incapacity state the petitioner's
18 efforts to use alternatives to guardianship before
19 seeking such a determination; amending s. 744.334,
20 F.S.; deleting the definition of the term
21 "alternatives to guardianship"; amending s. 744.3675,
22 F.S.; revising requirements for annual guardianship
23 plans; creating ch. 746, F.S., entitled "Supported
24 Decision-Making"; providing a directive to the
25 Division of Law Revision; creating s. 746.101, F.S.;
26 providing a short title; creating s. 746.102, F.S.;
27 providing legislative findings; creating s. 746.103,
28 F.S.; defining terms; creating s. 746.104, F.S.;
29 prohibiting adults from entering into supported

23-00214B-21

20211010__

30 decision-making agreements unless specified conditions
31 are met; providing a presumption of capacity for
32 adults; specifying that the manner in which an adult
33 with a disability communicates with others is not
34 grounds for a court to determine that the adult is
35 incapable of managing his or her affairs; prohibiting
36 an adult's execution of a supported decision-making
37 agreement from being used as evidence of his or her
38 incapacity; specifying that the execution of such
39 agreements does not preclude the ability of
40 decisionmakers to act independently of the agreement
41 or of their supporters; specifying that decisionmakers
42 are considered to have capacity even if capacity is
43 achieved by receiving decisionmaking assistance;
44 authorizing a decisionmaker to make, change, and
45 revoke a supported decision-making agreement even if
46 he or she does not have the capacity to independently
47 manage his or her health care, legal matters, and
48 financial affairs; creating s. 746.105, F.S.;

49 authorizing adults with disabilities to enter into
50 supported decision-making agreements with supporters;
51 requiring and authorizing supporters to perform
52 specified actions under such agreements; authorizing
53 adults with disabilities who are under guardianship or
54 guardian advocacy to enter into supported decision-
55 making agreements under certain conditions; providing
56 that supported decision-making agreements may refer to
57 and be used in conjunction with other legal documents;
58 authorizing decisionmakers to designate a supporter to

23-00214B-21

20211010__

59 act as a preneed guardian; creating s. 746.106, F.S.;

60 providing requirements for execution of a supported

61 decision-making agreement; creating s. 746.107, F.S.;

62 providing for the duration and termination of

63 supported decision-making agreements; creating s.

64 746.108, F.S.; authorizing supporters to assist

65 decisionmakers with obtaining certain information;

66 requiring decisionmakers to provide specific consent

67 before a supporter provides such assistance; providing

68 duties for supporters relating to such information;

69 creating s. 746.109, F.S.; specifying elements of

70 supported decision-making agreements; specifying

71 provisions that may be included in such agreements;

72 creating s. 746.1011, F.S.; providing a suggested form

73 for supported decision-making agreements; creating s.

74 746.1012, F.S.; requiring that decisions and requests

75 communicated with the assistance of a supporter be

76 recognized as decisions and requests of the

77 decisionmaker; creating s. 746.1013, F.S.; providing

78 that persons who are provided with supported decision-

79 making agreements may rely on the agreements;

80 providing that a person is not subject to criminal or

81 civil liability and has not engaged in professional

82 misconduct for certain acts and omissions under

83 specified conditions; providing immunity from certain

84 actions to certain health care providers and public

85 and private entities, custodians, and organizations,

86 under certain conditions; requiring educational

87 agencies and institutions to allow supporters to

23-00214B-21

20211010__

88 participate in certain school functions and meetings
 89 and have access to educational records under certain
 90 conditions; providing construction; creating s.
 91 746.1014, F.S.; requiring public schools to provide
 92 information about supported decision-making agreements
 93 under certain conditions; requiring public schools to
 94 ensure that certain informational materials include
 95 information relating to supported decision-making;
 96 requiring public schools to provide information and
 97 training to specified staff members; amending s.
 98 744.2003, F.S.; conforming a cross-reference;
 99 providing an effective date.

100

101 Be It Enacted by the Legislature of the State of Florida:

102

103 Section 1. Subsections (3) and (7) of section 393.12,
 104 Florida Statutes, are amended to read:

105 393.12 Capacity; appointment of guardian advocate.—

106 (3) PETITION.—A petition to appoint a guardian advocate for
 107 a person with a developmental disability may be executed by an
 108 adult person who is a resident of this state. The petition must
 109 be verified and must do all of the following:

110 (a) State the name, age, and present address of the
 111 petitioner and his or her relationship to the person with a
 112 developmental disability.†

113 (b) State the name, age, county of residence, and present
 114 address of the person with a developmental disability.†

115 (c) Allege that the petitioner believes that the person
 116 needs a guardian advocate and specify the factual information on

23-00214B-21

20211010__

117 which such belief is based.~~†~~

118 (d) State the petitioner's efforts to use alternatives to
 119 guardianship, as defined in s. 744.102, before seeking the
 120 appointment of a guardian advocate, including:

121 1. The alternatives to guardianship which were considered
 122 and implemented;

123 2. If alternatives to guardianship were not considered or
 124 implemented, the reason why alternatives to guardianship were
 125 not considered or implemented; and

126 3. Any reasons why alternatives to guardianship are
 127 insufficient to meet the needs of the person with a
 128 developmental disability and allow that person to exercise his
 129 or her own rights.

130 (e) Specify the exact areas in which the person lacks the
 131 decisionmaking ability to make informed decisions about his or
 132 her care and treatment services or to meet the essential
 133 requirements for his or her physical health or safety.~~†~~

134 (f)~~(e)~~ Specify the legal disabilities to which the person
 135 is subject.~~†~~and

136 (g)~~(f)~~ State the name of the proposed guardian advocate
 137 and~~†~~ the relationship of that person to the person with a
 138 developmental disability; the relationship that the proposed
 139 guardian advocate had or has with a provider of health care
 140 services, residential services, or other services to the person
 141 with a developmental disability; and the reason why this person
 142 should be appointed. If a willing and qualified guardian
 143 advocate cannot be located, the petition shall so state.

144 (7) ADVANCE DIRECTIVES FOR HEALTH CARE, AND DURABLE POWER
 145 OF ATTORNEY, AND SUPPORTED DECISION-MAKING AGREEMENTS.-In each

23-00214B-21

20211010__

146 proceeding in which a guardian advocate is appointed under this
147 section, the court shall determine whether the person with a
148 developmental disability has executed any valid advance
149 directive under chapter 765, ~~or~~ a durable power of attorney
150 under chapter 709, or a supported decision-making agreement
151 under chapter 746.

152 (a) If the person with a developmental disability has
153 executed an advance directive, a ~~or~~ durable power of attorney,
154 or a supported decision-making agreement, the court must
155 consider and find whether the documents will sufficiently
156 address the needs of the person with a developmental disability
157 for whom the guardian advocate is sought. A guardian advocate
158 may not be appointed if the court finds that the advance
159 directive, ~~or~~ durable power of attorney, or supported decision-
160 making agreement provides an alternative to the appointment of a
161 guardian advocate which will sufficiently address the needs of
162 the person with a developmental disability.

163 (b) If an interested person seeks to contest an advance
164 directive, a ~~or~~ durable power of attorney, or a supported
165 decision-making agreement executed by a person with a
166 developmental disability, the interested person shall file a
167 verified statement. The verified statement shall include the
168 factual basis for the belief that the advance directive, ~~or~~
169 durable power of attorney, or supported decision-making
170 agreement is invalid or does not sufficiently address the needs
171 of the person for whom a guardian advocate is sought or that the
172 person with authority under the advance directive, ~~or~~ durable
173 power of attorney, or supported decision-making agreement is
174 abusing his or her power.

23-00214B-21

20211010__

175 (c) If an advance directive exists, the court shall specify
176 in its order and letters of guardian advocacy what authority, if
177 any, the guardian advocate shall exercise over the person's
178 health care surrogate. Pursuant to the grounds listed in s.
179 765.105, the court, upon its own motion, may, with notice to the
180 health care surrogate and any other appropriate parties, modify
181 or revoke the authority of the health care surrogate to make
182 health care decisions for the person with a developmental
183 disability. For purposes of this section, the term "health care
184 decision" has the same meaning as in s. 765.101.

185 (d) If any durable power of attorney exists, the court
186 shall specify in its order and letters of guardian advocacy what
187 powers of the agent, if any, are suspended and granted to the
188 guardian advocate. The court, however, may not suspend any
189 powers of the agent unless the court determines the durable
190 power of attorney is invalid or there is an abuse by the agent
191 of the powers granted.

192 (e) If a supported decision-making agreement exists, the
193 court must specify in its order and letters of guardian advocacy
194 any part of the agreement which is suspended; however, the court
195 may not suspend any part of the supported decision-making
196 agreement unless it determines that the supported decision-
197 making agreement is invalid or there is an abuse by any of the
198 supporters.

199 Section 2. Present subsections (1) through (22) of section
200 744.102, Florida Statutes, are redesignated as subsections (2)
201 through (23), respectively, and a new subsection (1) is added to
202 that section, to read:

203 744.102 Definitions.—As used in this chapter, the term:

23-00214B-21

20211010__

204 (1) "Alternative to guardianship" means an approach to
205 meeting a person's needs which preserves more of his or her
206 rights than would the appointment of a guardian. Alternatives to
207 guardianship include, but are not limited to, an advance
208 directive as defined in s. 765.101, a durable power of attorney
209 as provided in chapter 709, a representative payee under 42
210 U.S.C. s. 1007, a trust instrument as defined in s. 736.0103,
211 the designation of a health care surrogate as provided in
212 chapter 765, or a supported decision-making agreement as
213 provided in chapter 746.

214 Section 3. Subsection (2) of section 744.3201, Florida
215 Statutes, is amended to read:

216 744.3201 Petition to determine incapacity.—

217 (2) The petition must be verified and must:

218 (a) State the name, age, and present address of the
219 petitioner and his or her relationship to the alleged
220 incapacitated person;

221 (b) State the name, age, county of residence, and present
222 address of the alleged incapacitated person;

223 (c) Specify the primary language spoken by the alleged
224 incapacitated person, if known;

225 (d) Allege that the petitioner believes the alleged
226 incapacitated person to be incapacitated and specify the factual
227 information on which such belief is based and the names and
228 addresses of all persons known to the petitioner who have
229 knowledge of such facts through personal observations;

230 (e) State the name and address of the alleged incapacitated
231 person's attending or family physician, if known;

232 (f) State which rights enumerated in s. 744.3215 the

23-00214B-21

20211010__

233 alleged incapacitated person is incapable of exercising, to the
234 best of petitioner's knowledge. If the petitioner has
235 insufficient experience to make such judgments, the petition
236 must so state; ~~and~~

237 (g) State the names, relationships, and addresses of the
238 next of kin of the alleged incapacitated person, so far as are
239 known, specifying the dates of birth of any who are minors; and

240 (h) State the petitioner's efforts to use alternatives to
241 guardianship, as defined in s. 744.102, before seeking a
242 determination of incapacity, including:

243 1. The alternatives to guardianship which were considered
244 and implemented;

245 2. If alternatives to guardianship were not considered or
246 implemented, the reason why alternatives to guardianship were
247 not considered or implemented; and

248 3. Any reasons why alternatives to guardianship are
249 insufficient to meet the needs of the alleged incapacitated
250 person and allow that person to exercise his or her own rights.

251 Section 4. Subsection (1) of section 744.334, Florida
252 Statutes, is amended to read:

253 744.334 Petition for appointment of guardian or
254 professional guardian; contents.—

255 (1) Every petition for the appointment of a guardian shall
256 be verified by the petitioner and shall contain statements, to
257 the best of petitioner's knowledge and belief, showing the name,
258 age, residence, and post office address of the alleged
259 incapacitated person or minor; the nature of her or his
260 incapacity, if any; the extent of guardianship desired, either
261 plenary or limited; the residence and post office address of the

23-00214B-21

20211010__

262 petitioner; the names and addresses of the next of kin of the
263 alleged incapacitated person or minor, if known to the
264 petitioner; the name of the proposed guardian and the reasons
265 why she or he should be appointed guardian; whether the proposed
266 guardian is a professional guardian; the relationship and
267 previous relationship of the proposed guardian to the alleged
268 incapacitated person or minor; any other type of guardianship
269 under part III of this chapter or alternatives to guardianship
270 that the alleged incapacitated person or minor has designated or
271 is in currently or has been in previously; the reasons why a
272 guardian advocate under s. 744.3085 or other alternatives to
273 guardianship are insufficient to meet the needs of the alleged
274 incapacitated person or minor; and the nature and value of
275 property subject to the guardianship. The petition must state
276 whether a willing and qualified guardian cannot be located. ~~As~~
277 ~~used in this subsection, the term "alternatives to guardianship"~~
278 ~~means an advance directive as defined in s. 765.101, a durable~~
279 ~~power of attorney as provided in chapter 709, a representative~~
280 ~~payee under 42 U.S.C. s. 1007, or a trust instrument as defined~~
281 ~~in s. 736.0103.~~

282 Section 5. Subsection (3) of section 744.3675, Florida
283 Statutes, is amended to read:

284 744.3675 Annual guardianship plan.—Each guardian of the
285 person must file with the court an annual guardianship plan
286 which updates information about the condition of the ward. The
287 annual plan must specify the current needs of the ward and how
288 those needs are proposed to be met in the coming year.

289 (3) Each plan for an adult ward must address the issue of
290 restoration of rights to the ward and include:

23-00214B-21

20211010__

291 (a) A summary of activities during the preceding year that
292 were designed to enhance the capacity of the ward, including
293 whether supported decision-making as provided in chapter 746 was
294 implemented. If supported decision-making was not implemented,
295 the plan must have a statement explaining the reason why it was
296 not implemented.

297 (b) A statement of whether the ward can have any rights
298 restored.

299 (c) A statement of whether restoration of any rights will
300 be sought.

301 Section 6. The Division of Law Revision is directed to
302 create chapter 746, Florida Statutes, consisting of ss. 746.101-
303 746.1014, Florida Statutes, to be entitled "Supported Decision-
304 Making."

305 Section 7. Section 746.101, Florida Statutes, is created to
306 read:

307 746.101 Short title.—This chapter may be cited as the
308 "Florida Supported Decision-Making Law."

309 Section 8. Section 746.102, Florida Statutes, is created to
310 read:

311 746.102 Legislative findings.—The Legislature finds that:

312 (1) All adults, with or without disabilities, should be
313 able to choose to live in the manner they wish.

314 (2) All adults should have the ability to be informed about
315 and participate in the management of their affairs.

316 (3) Adjudicating a person totally incapacitated and in need
317 of a guardian deprives the person of all of his or her civil and
318 legal rights and that this deprivation may be unnecessary.

319 (4) Supported decision-making is recognized as a less

23-00214B-21

20211010__

320 restrictive alternative to guardianship and guardian advocacy.

321 Section 9. Section 746.103, Florida Statutes, is created to
322 read:

323 746.103 Definitions.—For purposes of this chapter, the
324 term:

325 (1) "Adult" means a person 18 years of age or older, or a
326 person under 18 years of age whose disability of minority has
327 been removed by marriage or otherwise.

328 (2) "Decisionmaker" means an adult with a disability who
329 has entered into a supported decision-making agreement with a
330 supporter.

331 (3) "Disability" means, with respect to a person, a
332 physical or mental impairment that substantially limits one or
333 more major life activities, or a record of such an impairment.

334 (4) "Supported decision-making" means a process of
335 supporting and accommodating an adult with a disability in order
336 to assist him or her in understanding the options,
337 responsibilities, and consequences of life decisions and
338 enabling the adult to make life decisions, including decisions
339 related to where he or she wants to live; the services,
340 supports, and medical care he or she wants to receive; and where
341 the adult wants to work, without impeding the self-determination
342 of the adult.

343 (5) "Supported decision-making agreement" means an
344 agreement between a decisionmaker and one or more supporters
345 entered into under this chapter.

346 (6) "Supporter" means an adult who has entered into a
347 supported decision-making agreement with a decisionmaker to
348 support the decisionmaker.

23-00214B-21

20211010__

349 Section 10. Section 746.104, Florida Statutes, is created
350 to read:

351 746.104 Capacity.-

352 (1) An adult may not enter into a supported decision-making
353 agreement unless the adult:

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

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

357 (2) An adult, with or without a disability, is presumed to
358 be capable of managing his or her affairs and to have capacity
359 unless otherwise determined by a court in accordance with ss.
360 744.3201-744.331.

361 (3) The manner in which an adult with a disability
362 communicates with others is not grounds for a court to determine
363 that the adult is incapable of managing his or her affairs.

364 (4) Execution of a supported decision-making agreement may
365 not be used as evidence of incapacity and does not preclude the
366 ability of the decisionmaker to act independently of the
367 agreement and of his or her supporters.

368 (5) For purposes of this chapter, a decisionmaker is
369 considered to have capacity even if the capacity is achieved by
370 receiving decisionmaking assistance.

371 (6) A decisionmaker may make, change, or revoke a supported
372 decision-making agreement even if the decisionmaker does not
373 have the capacity to independently manage his or her health
374 care, legal matters, or financial affairs.

375 Section 11. Section 746.105, Florida Statutes, is created
376 to read:

377 746.105 Supported decision-making agreements.-

23-00214B-21

20211010__

378 (1) An adult with a disability may voluntarily, without
379 undue influence or coercion, enter into a supported decision-
380 making agreement with a supporter under which the decisionmaker
381 authorizes the supporter to do any of the following:

382 (a) Provide supported decision-making, including assistance
383 in understanding the options, responsibilities, and consequences
384 of the decisionmaker's life decisions, without making those
385 decisions on behalf of the decisionmaker.

386 (b) Assist the decisionmaker in accessing, collecting, and
387 obtaining information that is relevant to a given life decision,
388 including medical, psychological, financial, educational, or
389 treatment records, from any person or entity, in accordance with
390 s. 746.108.

391 (c) Assist the decisionmaker in understanding the
392 information described by paragraph (b).

393 (d) Assist the decisionmaker in communicating his or her
394 decisions to appropriate persons.

395 (2) A supporter shall exercise only the authority expressly
396 granted to the supporter in the supported decision-making
397 agreement.

398 (3) A supporter may access the decisionmaker's personal
399 information only to the extent authorized in the supported
400 decision-making agreement.

401 (4) A supporter shall act with the care, competence, and
402 diligence ordinarily exercised by individuals in similar
403 circumstances, with due regard either to the possession of, or
404 lack of, special skills or expertise. A supporter is not a
405 fiduciary of the decisionmaker, unless the supporter has been
406 appointed as such in another legal document, including, but not

23-00214B-21

20211010__

407 limited to, a power of attorney.

408 (5) An adult with a disability who is under guardianship or
409 guardian advocacy may enter into a supported decision-making
410 agreement if his or her guardian or guardian advocate grants
411 approval in writing of the supported decision-making agreement.
412 The adult with a disability does not need approval from the
413 guardian or guardian advocate if the supported decision-making
414 agreement will only affect rights that were not removed by the
415 court.

416 (6) Supported decision-making agreements may refer to and
417 be used in conjunction with other legal documents, including,
418 but not limited to, any of the following:

419 (a) A designation of a health care surrogate as provided in
420 chapter 765.

421 (b) A power of attorney as provided in chapter 709.

422 (c) A trust instrument as defined in s. 736.0103.

423 (d) An advance directive as defined in s. 765.101.

424 (7) A decisionmaker may designate a supporter to act as a
425 preneed guardian as defined in s. 744.102.

426 Section 12. Section 746.106, Florida Statutes, is created
427 to read:

428 746.106 Execution of supported decision-making agreements.-

429 (1) A supported decision-making agreement must be signed
430 voluntarily, without coercion or undue influence, by the
431 decisionmaker and the supporter.

432 (2) The decisionmaker and the supporter must sign the
433 supported decision-making agreement in the presence of two
434 subscribing adult witnesses or must sign the agreement before a
435 notary public.

23-00214B-21

20211010__

436 (3) A decisionmaker or a supporter who is unable to
437 physically sign the supported decision-making agreement may, in
438 the presence of witnesses, direct another person to sign the
439 decisionmaker's or supporter's name. If the supported decision-
440 making agreement is acknowledged before a notary public, the
441 notary public may sign the decisionmaker's or supporter's name
442 pursuant to s. 117.05(14).

443 (4) The decisionmaker and the supporter may not act as
444 witness to the execution of the supported decision-making
445 agreement. At least one person who acts as a witness must be a
446 person other than the decisionmaker's spouse or a blood
447 relative.

448 Section 13. Section 746.107, Florida Statutes, is created
449 to read:

450 746.107 Duration; termination.-

451 (1) A supported decision-making agreement remains in effect
452 until terminated by either party, by the terms of the agreement,
453 or by court order.

454 (2) A supported decision-making agreement may be terminated
455 by the decisionmaker by giving notice to the supporter orally,
456 in writing, through an assistive technology device, or by any
457 other act showing a specific intent to terminate the agreement.

458 (3) A supported decision-making agreement may be terminated
459 by a supporter by providing written notice of the supporter's
460 resignation to the decisionmaker and all other supporters
461 appointed in the agreement. If the decisionmaker cannot
462 understand a written notice, notice must also be provided in the
463 decisionmaker's preferred method of communication. If a
464 supported decision-making agreement includes more than one

23-00214B-21

20211010__

465 supporter, a supporter can terminate the agreement only as to
466 that supporter.

467 (4) A supported decision-making agreement may be terminated
468 by any additional method specified in the agreement.

469 (5) If any person initiates judicial proceedings to
470 determine the decisionmaker's incapacity or for the appointment
471 of a guardian advocate, the supported decision-making agreement
472 remains in effect until the court enters an order determining
473 otherwise. However, any related documents where surrogate
474 decisionmaking power was granted by the decisionmaker, including
475 a power of attorney or designation of a health care surrogate,
476 shall be treated in accordance with chapter 744 and the relevant
477 authorizing statute.

478 Section 14. Section 746.108, Florida Statutes, is created
479 to read:

480 746.108 Access to information.—

481 (1) A supporter may assist the decisionmaker with obtaining
482 any information to which the decisionmaker is entitled,
483 including, but not limited to, protected health information
484 under the Health Insurance Portability and Accountability Act of
485 1996, 42 U.S.C. s. 1320d, educational records under the Family
486 Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g,
487 or information protected by 42 U.S.C. s. 290dd-2 and 42 C.F.R.
488 part 2. Before the supporter assists the decisionmaker with
489 obtaining such information, the decisionmaker must provide his
490 or her signed and dated specific consent for the supporter to
491 provide assistance.

492 (2) The supporter shall ensure all information collected on
493 behalf of the decisionmaker under this section is kept

23-00214B-21

20211010__

494 privileged and confidential, as applicable; is not subject to
495 unauthorized access, use, or disclosure; and is properly
496 disposed of when appropriate.

497 Section 15. Section 746.109, Florida Statutes, is created
498 to read:

499 746.109 Elements of a supported decision-making agreement.—

500 (1) A supported decision-making agreement must do all of
501 the following:

502 (a) Identify the decisionmaker.

503 (b) Name at least one supporter.

504 (c) Describe the decisionmaking assistance that each
505 supporter may provide the decisionmaker.

506 (d) State the duration of the supported decision-making
507 agreement and how it can be terminated or changed.

508 (e) Provide a notice to third parties describing the
509 purpose of the supported decision-making agreement.

510 (f) Provide instructions on how to report abuse, neglect,
511 or exploitation of the decisionmaker, including the website,
512 telephone number, teletype number, and fax number for the
513 Department of Children and Families' Florida Abuse Hotline.

514 (g) Include, for each supporter, a signed declaration of
515 supporter, as provided in s. 746.1011(10).

516 (2) A supported decision-making agreement may do any of the
517 following:

518 (a) Appoint more than one supporter.

519 (b) Appoint an alternate to act in the place of a supporter
520 under circumstances specified in the agreement.

521 (c) Authorize a supporter to share information with any
522 other supporter or other person named in the agreement.

23-00214B-21

20211010__

523 (d) Refer to other legal documents, such as a power of
524 attorney as provided in chapter 709.

525 (e) Include signed approval from a guardian or guardian
526 advocate, if appropriate, as provided under s. 746.105(5).

527 Section 16. Section 746.1011, Florida Statutes, is created
528 to read:

529 746.1011 Suggested form.—A supported decision-making
530 agreement may, but need not, be in the following form:

531
532 STATUTORY FORM FOR
533 SUPPORTED DECISION-MAKING AGREEMENT

534
535 SUPPORTED DECISION-MAKING AGREEMENT OF ...(print name)...
536

537 This is the Supported Decision-Making Agreement of ...(print
538 name)..., date of birth, of ...(city)..., Florida.

539
540 (1) INTRODUCTION. I,....., want to have one or more
541 persons I trust help me make decisions, obtain and understand
542 the information I need to make my decisions, and tell other
543 people about my decisions. The people who will help me are my
544 "supporters."

545 This is a written agreement between me ("decisionmaker")
546 and each of my supporters. I am stating in this agreement what
547 kind of help each of my supporters will give me and whether I
548 will delegate any powers to them to exercise on my behalf.

549
550 UNLESS EXPRESSLY AUTHORIZED TO DO SO, A SUPPORTER APPOINTED
551 UNDER THIS AGREEMENT DOES NOT MAKE DECISIONS FOR ME.

23-00214B-21

20211010__

552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580

Each of my supporters may exercise their authority independently:

Yes No

My supporters may share information with each other:

Yes No

(2) SUPPORTERS AND POWERS GRANTED TO SUPPORTERS. These are my supporters and how they will help me make decisions:

SUPPORTER NO. 1

Name:...(name)...

Address:...(address)...

Telephone:...(telephone)...

E-mail:...(e-mail)...

I want this supporter to help me with (Make a cross mark X in the space before each description, as desired):

.... Making choices about food and clothing.

.... Making choices about where and with whom I live.

.... Making choices about my health and health care.

.... Making choices about how I spend my time.

.... Making choices about where I work.

.... Making choices about my education.

.... Making choices about my support services, including applying for public benefits and seeking home care services, such as laundry and cooking, transportation, and companionship.

.... Making choices about how I spend my money and how I save my money, including managing any public benefits I may

23-00214B-21

20211010__

581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609

receive.

.... Making choices about legal matters.

.... Making choices about

.... Making choices about

.... Making choices about

.... Making choices about

I want this supporter to help me by:

I do not want this supporter to help me by:

I am attaching another legal document, such as a power of attorney or a health care surrogate designation, for this supporter:

Yes No

SUPPORTER NO. 2

Name:...(name)...

Address:...(address)...

Telephone:...(telephone)...

E-mail:...(e-mail)...

I want this supporter to help me with (Make a cross mark X in the space before each description, as desired):

.... Making choices about food and clothing.

.... Making choices about where and with whom I live.

.... Making choices about my health and health care.

.... Making choices about how I spend my time.

.... Making choices about where I work.

23-00214B-21

20211010__

610 Making choices about my education.
 611 Making choices about my support services, including
 612 applying for public benefits and seeking home care services,
 613 such as laundry and cooking, transportation, and companionship.
 614 Making choices about how I spend my money and how I
 615 save my money, including managing any public benefits I may
 616 receive.

617 Making choices about legal matters.

618 Making choices about

619 Making choices about

620 Making choices about

621 Making choices about

623 I want this supporter to help me by:

625 I do not want this supporter to help me by:

627 I am attaching another legal document, such as a power of
 628 attorney or a health care surrogate designation, for this
 629 supporter:

630 Yes No

632 ALTERNATE SUPPORTER. If one of my supporters dies, becomes
 633 unable to act as my supporter, refuses to act as my supporter,
 634 or terminates the supporter's part of this agreement, I want the
 635 following person to become my supporter and help me with the
 636 areas the original supporter was helping me with:

638 Name:...(name)...

23-00214B-21

20211010__

639 Address:...(address)...
 640 Telephone:...(telephone)...
 641 E-mail:...(e-mail)...
 642

643 (3) PRENEED GUARDIAN(S). I want the following supporters,
 644 in this order, to be my preneed guardians, as described in s.
 645 744.3045, Florida Statutes, in case a court ever determines that
 646 I need a guardian.

- 647 1. ...(name)...
 648 2. ...(name)...
 649 3. ...(name)...
 650

651 If I appoint a preneed guardian, I understand that I must
 652 sign this agreement myself in the presence of at least two
 653 attesting witnesses present at the same time.
 654

655 (4) INFORMATION ACCESS FORMS. I am attaching to this
 656 agreement:
 657

658 A form that allows my supporter(s) to obtain my health
 659 information under the Health Insurance Portability and
 660 Accountability Act:

661 Yes No
 662

663 A form that allows my supporter(s) to access my educational
 664 records under the Family Educational Rights and Privacy Act of
 665 1974:

666 Yes No
 667

23-00214B-21

20211010__

668 (5) GUARDIANS AND GUARDIAN ADVOCATES. If I have a guardian
669 or guardian advocate and this agreement relates to any of the
670 rights that have been delegated to my guardian or guardian
671 advocate, my guardian or guardian advocate must approve this
672 agreement by signing section 12. (If true, make a cross mark X
673 before the item below):

674
675 My guardian or guardian advocate has signed section 12
676 of this agreement, approving my use of this agreement.

677
678 (6) NOTICE TO THIRD PARTIES. This is a summary of the
679 rights and obligations of a supporter as provided under chapter
680 746, Florida Statutes, which authorizes me to enter into this
681 agreement. A supporter does not make decisions for the
682 decisionmaker, but a supporter may provide a decisionmaker with
683 help when making decisions, obtaining information for decisions,
684 communicating decisions, and understanding the options,
685 responsibilities, and consequences of decisions. A supporter may
686 accompany the decisionmaker and participate in discussions with
687 other persons. The decisionmaker sets out in this agreement the
688 areas in which the supporter may help the decisionmaker with
689 decisions. A third party must recognize a decision or request of
690 the decisionmaker which is made or communicated with the
691 assistance of a supporter as the decision or request of the
692 decisionmaker. The decisionmaker or supporter may enforce the
693 decision or request in law or equity. A decisionmaker may act
694 without the help of the supporter.

695
696 (7) DURATION AND TERMINATION OF AGREEMENT. I can end all or

23-00214B-21

20211010__

697 part of this agreement at any time by giving notice to my
698 supporter(s) orally, in writing, through an assistive technology
699 device, or by This agreement starts . . .(date)... and will
700 continue until the agreement is terminated by myself or my
701 supporter(s).

702
703 (8) SIGNATURE OF DECISIONMAKER. I know that I do not have
704 to sign this agreement. I am entering into this agreement
705 voluntarily and without coercion or undue influence. I
706 understand the nature and effect of this agreement. I know that
707 I can change this agreement at any time.

708
709 Signature: . . .(sign your name)...
710 Printed Name: . . .(print your name)...
711 Telephone: . . .(telephone)...
712 E-mail: . . .(e-mail)...
713 Date: . . .(date)...

714
715 (9) SIGNATURES OF SUPPORTERS.
716 Signature of Supporter No. 1
717 Signature: . . .(sign your name)...
718 Printed Name: . . .(print your name)...
719 Date: . . .(date)...

720
721 Signature of Supporter No. 2
722 Signature: . . .(sign your name)...
723 Printed Name: . . .(print your name)...
724 Date: . . .(date)...
725

23-00214B-21

20211010__

726 Signature of Alternate Supporter
 727 Signature: ...(sign your name)...
 728 Printed Name: ...(print your name)...
 729 Date: ...(date)...
 730
 731 (10) DECLARATIONS OF SUPPORTERS.
 732 DECLARATION OF SUPPORTER NO. 1.
 733 I, ...(print your name) ..., am the decisionmaker's
 734 ...(relationship to the decisionmaker).... I am willing to act
 735 as the decisionmaker's supporter. I understand that my job as a
 736 supporter is to help the decisionmaker make decisions, obtain
 737 and understand information for decisions, communicate decisions,
 738 and understand the options, responsibilities, and consequences
 739 of decisions. My support may include giving the decisionmaker
 740 information in a way that the decisionmaker can understand,
 741 discussing pros and cons of decisions, and helping the
 742 decisionmaker communicate the decisionmaker's decisions. I will
 743 act with the care, competence, and diligence ordinarily
 744 exercised by individuals in similar circumstances, with due
 745 regard either to the possession of, or lack of, special skills
 746 or expertise. I know that I may exercise only the authority
 747 expressly granted to me in this agreement. I know that I may not
 748 make decisions for the decisionmaker, unless expressly
 749 authorized to do so in this agreement. I will not exert undue
 750 influence on the decisionmaker. I will not sign on behalf of the
 751 decisionmaker or provide an electronic signature of the
 752 decisionmaker to a third party, unless expressly authorized to
 753 do so in another legal document such as a power of attorney. I
 754 will access the decisionmaker's personal information only to the

23-00214B-21

20211010__

755 extent authorized in this agreement. I will ensure all
756 information collected on behalf of the decisionmaker is kept
757 private and confidential; is not subject to unauthorized access,
758 use, or disclosure; and is properly disposed of when
759 appropriate. I will not use information I receive under this
760 agreement for a purpose other than as authorized by the
761 decisionmaker for decisionmaking, unless the decisionmaker
762 consents to another use. I understand that under chapter 825,
763 Florida Statutes, it is a crime to commit acts of abuse,
764 neglect, or exploitation against a person with a disability and
765 that the penalty for doing so may include fines and prison time.

766
767 Signature: ...(sign your name)...

768 Printed Name: ...(print your name)...

769 Date: ...(date)...
770

771 DECLARATION OF SUPPORTER NO. 2.

772 I, ...(print your name)..., am the decisionmaker's
773 ...(relationship to the decisionmaker).... I am willing to act
774 as the decisionmaker's supporter. I understand that my job as a
775 supporter is to help the decisionmaker make decisions, obtain
776 and understand information for decisions, communicate decisions,
777 and understand the options, responsibilities, and consequences
778 of decisions. My support may include giving the decisionmaker
779 information in a way that the decisionmaker can understand,
780 discussing pros and cons of decisions, and helping the
781 decisionmaker communicate the decisionmaker's decisions. I will
782 act with the care, competence, and diligence ordinarily
783 exercised by individuals in similar circumstances, with due

23-00214B-21

20211010__

784 regard either to the possession of, or lack of, special skills
785 or expertise. I know that I may exercise only the authority
786 expressly granted to me in this agreement. I know that I may not
787 make decisions for the decisionmaker, unless expressly
788 authorized to do so in this agreement. I will not exert undue
789 influence on the decisionmaker. I will not sign on behalf of the
790 decisionmaker or provide an electronic signature of the
791 decisionmaker to a third party, unless expressly authorized to
792 do so in another legal document such as a power of attorney. I
793 will access the decisionmaker's personal information only to the
794 extent authorized in this agreement. I will ensure all
795 information collected on behalf of the decisionmaker is kept
796 private and confidential; is not subject to unauthorized access,
797 use, or disclosure; and is properly disposed of when
798 appropriate. I will not use information I receive under this
799 agreement for a purpose other than as authorized by the
800 decisionmaker for decisionmaking, unless the decisionmaker
801 consents to another use. I understand that under chapter 825,
802 Florida Statutes, it is a crime to commit acts of abuse,
803 neglect, or exploitation against a person with a disability and
804 that the penalty for doing so may include fines and prison time.

805

806 Signature: ... (sign your name)...807 Printed Name: ... (print your name)...808 Date: ... (date)...

809

810 (11) NOTARIZATION OR WITNESSING. The signatures on this
811 agreement must be either (1) notarized, or (2) witnessed by two
812 witnesses.

23-00214B-21

20211010__

813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841

NOTARIZATION

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this day of,, by the decisionmaker and supporters signed above.

.....

Signature of Notary Public - State of Florida

.....

Print, Type, or Stamp Commissioned Name of Notary Public

DECISIONMAKER,

.... Personally Known OR Produced Identification

Type of Identification Produced

SUPPORTER NO. 1,

.... Personally Known OR Produced Identification

Type of Identification Produced

SUPPORTER NO. 2,

.... Personally Known OR Produced Identification

Type of Identification Produced

23-00214B-21

20211010__

842 ALTERNATE SUPPORTER,
 843 Personally Known OR Produced Identification
 844 Type of Identification Produced

845
846 WITNESSING

847
848 If the signatures are not notarized, two adults must
 849 witness the signatures of the decisionmaker, the supporter(s),
 850 and any alternate supporter. If this agreement designates a
 851 preneed guardian, it must be signed before two attesting
 852 witnesses present at the same time. A witness CANNOT be a
 853 supporter named in this agreement.

854
855 Witness Signature: ...(sign your name)...
 856 Printed Name: ...(print your name)...
 857 Date: ...(date)...

858
859 Witness Signature: ...(sign your name)...
 860 Printed Name: ...(print your name)...
 861 Date: ...(date)...

862
863 (12) APPROVAL BY GUARDIAN OR GUARDIAN ADVOCATE.
 864 I,, am the guardian OR guardian advocate of
 865 I have read and understand the nature and effect of this
 866 agreement. I approve the use of this agreement by ... to obtain
 867 support in making decisions.

868
869 Signature: ...(sign your name)...
 870 Printed Name: ...(print your name)...

23-00214B-21

20211010__

871 Date: ... (date)...

872

873 WARNING: PROTECTION FOR DECISIONMAKER

874

875 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS
 876 AWARE OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE
 877 THAT THE ADULT NAMED AS A DECISIONMAKER IS BEING ABUSED,
 878 NEGLECTED, OR EXPLOITED BY THE SUPPORTER, THE PERSON MAY REPORT
 879 THE ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE FLORIDA
 880 DEPARTMENT OF CHILDREN AND FAMILIES' FLORIDA ABUSE HOTLINE:

881

882 ONLINE: <https://reportabuse.dcf.state.fl.us/>

883 PHONE: 1-800-962-2873

884 FLORIDA RELAY: 711

885 TTY: 800-955-8771

886 FAX: 800-914-0004

887 Section 17. Section 746.1012, Florida Statutes, is created
 888 to read:

889 746.1012 Recognition of supporters.—A decision or request
 890 communicated with the assistance of a supporter in conformity
 891 with this chapter must be recognized for the purposes of any
 892 provision of law as the decision or request of the decisionmaker
 893 and may be enforced by the decisionmaker or supporter in law or
 894 equity on the same basis as a decision or request of the
 895 decisionmaker.

896 Section 18. Section 746.1013, Florida Statutes, is created
 897 to read:

898 746.1013 Reliance on agreement; limitation of liability.—
 899 (1) A person who is provided with an original supported

23-00214B-21

20211010__

900 decision-making agreement, or a copy of the supported decision-
901 making agreement, may rely on the agreement.

902 (2) A person is not subject to criminal or civil liability
903 and has not engaged in professional misconduct for an act or
904 omission if the act or omission is done in good faith and in
905 reliance upon a supported decision-making agreement.

906 (3) Any health care provider, as defined in s. 408.07, who
907 provides health care based on the consent of a decisionmaker,
908 made with a supporter provided through a duly executed supported
909 decision-making agreement, or who respects and acts consistently
910 with the authority given to a supporter by a duly executed
911 supported decision-making agreement shall be immune from any
912 action alleging that the agreement was invalid unless the
913 entity, custodian, or organization had actual knowledge or
914 notice that the decisionmaker had revoked such authorization or
915 that the agreement was invalid.

916 (4) Any public or private entity, custodian, or
917 organization that discloses personal information about a
918 decisionmaker to a supporter who is authorized to access or
919 assist the decisionmaker in accessing that information shall be
920 immune from any action alleging that it improperly or unlawfully
921 disclosed such information to the supporter, unless the entity,
922 custodian, or organization had actual knowledge that the
923 decisionmaker had revoked such authorization.

924 (5) Any public or private educational agency or institution
925 may rely on any supported decision-making agreement and shall
926 allow the participation of supporters authorized by the
927 supported decision-making agreement in all educational events,
928 activities, meetings, and conferences, including individual

23-00214B-21

20211010__

929 education plan meetings in public schools. Educational entities
930 shall also provide authorized supporters with access to
931 educational records upon receipt of a signed and dated specific
932 consent, as described in s. 746.108.

933 (6) This section may not be construed to provide immunity
934 from actions alleging that an entity or a person has done any of
935 the following:

936 (a) Caused personal injury as a result of a negligent,
937 reckless, or intentional act.

938 (b) Acted inconsistently with the expressed wishes of the
939 decisionmaker.

940 (c) In the case of a health care provider, failed to
941 provide information to either a decisionmaker or the
942 decisionmaker's supporter which would be necessary for informed
943 consent.

944 (d) Otherwise acted inconsistently with applicable law.

945 (7) The existence or availability of a supported decision-
946 making agreement does not relieve any entity or person of any
947 legal obligation to provide services to persons with
948 disabilities, including the obligation to provide reasonable
949 accommodations or auxiliary aids and services, including
950 interpretation services and communication supports, to
951 individuals with disabilities under the Americans with
952 Disabilities Act.

953 Section 19. Section 746.1014, Florida Statutes, is created
954 to read:

955 746.1014 Supported decision-making in public schools.-

956 (1) When a public school provides information regarding
957 guardianship to students, parents, guardians, or any other

23-00214B-21

20211010__

958 person exercising supervisory authority over a student in place
959 of a parent, the school must also provide information about
960 supported decision-making agreements.

961 (2) Each public school shall ensure that any informational
962 materials, including documents, brochures, and presentations,
963 which provide information on guardianship include information on
964 supported decision-making and the process for signing a
965 supported decision-making agreement as provided under this
966 chapter. A public school may comply with this section by
967 revising materials as they are due to be printed in regular
968 course, or by revising materials by July 1, 2024, whichever
969 occurs later.

970 (3) Each public school shall provide information and
971 training on supported decision-making to all staff members who
972 are tasked with assisting with or providing information on a
973 student's transition to postsecondary education and career
974 opportunities. A public school may comply with this section by
975 incorporating the topic of supported decision-making into its
976 regularly scheduled meetings, trainings, and events.

977 Section 20. Subsection (3) of section 744.2003, Florida
978 Statutes, is amended to read:

979 744.2003 Regulation of professional guardians; application;
980 bond required; educational requirements.—

981 (3) Each professional guardian defined in s. 744.102(18) ~~s.~~
982 ~~744.102(17)~~ and public guardian must receive a minimum of 40
983 hours of instruction and training. Each professional guardian
984 must receive a minimum of 16 hours of continuing education every
985 2 calendar years after the year in which the initial 40-hour
986 educational requirement is met. The instruction and education

23-00214B-21

20211010__

987 must be completed through a course approved or offered by the
988 Office of Public and Professional Guardians. The expenses
989 incurred to satisfy the educational requirements prescribed in
990 this section may not be paid with the assets of any ward. This
991 subsection does not apply to any attorney who is licensed to
992 practice law in this state or an institution acting as guardian
993 under s. 744.2002(7).

994 Section 21. This act shall take effect July 1, 2021.