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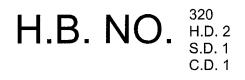
## A BILL FOR AN ACT

RELATING TO SUPPORTED DECISION-MAKING AGREEMENTS.

### **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1	SECTION 1. The Hawaii Revised Statutes is amended by
2	adding a new chapter to be appropriately designated and to read
3	as follows:
4	"CHAPTER
5	SUPPORTED DECISION-MAKING AGREEMENT FOR QUALIFIED ADULTS
6	<b>§ -1 Definitions.</b> As used in this chapter:
7	"Adult" means an individual who is eighteen years of age or
8	older, or an emancipated minor.
9	"Aging adult" means a person who is sixty-five years of age
10	or older.
11	"Assist" means helping a qualified adult consider the
12	advantages and disadvantages of a decision and understand the
13	possible outcomes of making that decision.
14	"Disability" means a physical or mental impairment that
15	substantially limits one or more major life activities or a
16	record of such an impairment.

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1 "Member of the supportive community" means a person whom
2 the qualified adult has identified, whom the qualified adult
3 trusts to engage in the supported decision-making process, and
4 who understands the qualified adult's desires and personal
5 values.

6 "Mentally ill adult" means an adult who has a psychiatric
7 disorder or other disease that substantially impairs the adult's
8 mental health and necessitates treatment or supervision.

9 "Personal information" means information that can be used 10 to distinguish or trace an individual's identity, either alone 11 or when combined with other information, that is linked or 12 linkable to a specific individual.

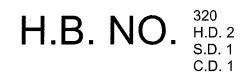
13 "Qualified adult" means an adult with a disability, a14 mentally ill adult, or an aging adult.

15 "Supported decision-making" means a process where a 16 qualified adult has made or is making decisions by using 17 friends, family members, professionals, or other people the 18 qualified adult trusts to:

- 19 (1) Help understand the issues and choices;
- 20 (2) Answer questions;

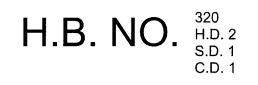
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1	(3)	Provide explanations in a language the qualified adult		
2		understands;		
3	(4)	Communicate the qualified adult's decision to others,		
4		if necessary and if specifically requested by the		
5		qualified adult; or		
6	(5)	Facilitate the exercise of decisions regarding the		
7		qualified adult's day-to-day health, safety, welfare,		
8		or financial affairs.		
9	"Sup	ported decision-making agreement" or "agreement" means		
10	a volunta	ry agreement entered into pursuant to this chapter		
11	between a qualified adult and one or more members of the			
12	supportiv	e community.		
13	"Vul	nerable adult" has the same meaning as defined in		
14	section 3	46-222.		
15	Ş	-2 Supported decision-making agreement; term. (a) A		
16	qualified	adult may voluntarily, without coercion or undue		
17	influence	, enter into a supported decision-making agreement with		
18	one or mo	re members of the supportive community; provided that		
19	the suppo	rted decision-making agreement shall not adversely		
20	affect th	e decision-making authority granted to a court-		
21	appointed	guardian or court-appointed conservator.		





1	(b)	Unde	er the supported decision-making agreement, the	
2	qualified	adul	t may request the member of the supportive	
3	community	to d	to any or all of the following:	
4	(1)	Prov	vide supported decision-making, including	
5		assi	stance in understanding the options,	
6		responsibilities, and consequences of the qualified		
7		adult's life decisions, without making those decisions		
8		on behalf of the qualified adult;		
9	(2)	Assi	st in accessing, collecting, obtaining, and	
10		understanding information that is relevant to a given		
11		life decision from any person, including but not		
12		limited to:		
13		(A)	Medical, psychological, financial, educational,	
14			occupational, and social decisions;	
15		(B)	Treatment records;	
16		(C)	How and in what relationships the qualified adult	
17			chooses to engage; and	
18		(D)	Information about how members of the supportive	
19			community are chosen; or	

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1	(3)	Assist the qualified adult in communicating the
2		qualified adult's decisions to appropriate persons
3		when expressly requested by the qualified adult.
4	(C)	A member of the supportive community shall not be
5	entitled	to compensation or other consideration, in cash or in
6	kind, for	assistance provided to the qualified adult for the
7	purposes	of a supported decision-making agreement.
8	(d)	A qualified adult shall not enter into a supported
9	decision-	making agreement with a member of the supportive
10	community	who:
11	(1)	Has been confirmed as the perpetrator of abuse of the
12		qualified adult, any other qualified adult, or any
13		vulnerable adult; or
14	(2)	Has been convicted of:
15		(A) A crime against a vulnerable adult or in which
16		the member otherwise intentionally caused
17		physical harm to another;
18		(B) A financial crime; or
19		(C) The offense of theft in the first, second, third,
20		or fourth degree.

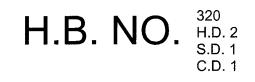
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1 S -3 Access to personal information. (a) The member of 2 the supportive community selected by a qualified adult pursuant 3 to section -2 shall only assist the qualified adult in 4 accessing, collecting, or obtaining information that is relevant 5 to a decision made pursuant to the supported decision-making 6 agreement and only when the assistance is specifically requested 7 by the qualified adult; provided that protected medical 8 information under the Health Insurance Portability and 9 Accountability Act of 1996, P.L. 104-191, or education records 10 under title 20 United States Code section 1232g of the Family 11 Educational Rights and Privacy Act of 1974 shall require express 12 written consent from the qualified adult.

(b) If a member of the supportive community assists the qualified adult in accessing, collecting, or obtaining financial, medical, or personal information, the member of the supportive community shall keep the information confidential, as requested by the qualified adult.

(c) A member of the supportive community who obtains
information pursuant to this section shall only use the
information for the specific purposes requested by the qualified
adult. Any misuse of information obtained pursuant to this

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1	section m	ay subject the member of the supportive community to
2	criminal	and civil liability.
3	Ş	-4 Supported decision-making agreement; requirements;
4	terminati	on. (a) A supported decision-making agreement shall
5	be in wri	ting and shall include, at a minimum:
6	(1)	The name of the qualified adult;
7	(2)	The name, address, phone number, and electronic mail
8		address of the member of the supportive community, if
9		applicable;
10	(3)	Identification of the subject matter for which the
11		qualified adult requests advice from the member of the
12		supportive community;
13	(4)	A description of the agreement terms, including, at a
14		minimum, the terms under which the member of the
15		supportive community agrees to:
16		(A) Provide information as requested by the qualified
17		adult;
18		(B) Respect that the final and ultimate decision is
19		the qualified adult's and not the member of the
20		supportive community's;

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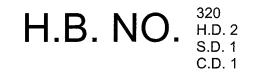
1		(C) Not coerce or manipulate the qualified adult into		
2		making any decision; and		
3		(D) Provide the most up-to-date and relevant		
4		information to the qualified adult based on all		
5		the available and known information the member of		
6		the supportive community has;		
7	(5)	A description of how the members of the supportive		
8		community may work together, if there is more than one		
9		member of the supportive community;		
10	(6)	A description of how any perceived or actual conflict		
11		between the members of the supportive community and		
12		the qualified adult shall be mitigated;		
13	(7)	A notice that any person, as described in section		
14		346-224(a), who is relying on the supported decision-		
15		making agreement and who knows or has reason to		
16		believe that the qualified adult is a vulnerable adult		
17		and has incurred abuse or is in danger of abuse if		
18		immediate action is not taken, shall report the		
19		alleged abuse to the department of human services in		
20		accordance with section 346-224; and		

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1	(8) The day, month, and year the supported decision-making
2	agreement was entered into.
3	(b) A supported decision-making agreement shall be signed
4	voluntarily, without coercion or undue influence, by the
5	qualified adult and each member of the supportive community in
6	the presence of two or more attesting and disinterested
7	witnesses who are eighteen years of age or older, or a notary
8	public.
9	(c) The supported decision-making agreement shall be
10	effective until terminated by either the qualified adult or the
11	member of the supportive community, or by the terms of the
12	agreement. Any party may choose to terminate the agreement at
13	any time by providing written or verbal notice of the
14	termination to all parties to the supported decision-making
15	agreement.

16 (d) The supported decision-making agreement shall17 automatically be terminated if:

18 (1) After investigating a member of the supportive
19 community for abuse of the qualified adult, the
20 department of human services confirms that the

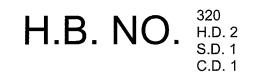
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1		qual	ified adult is a vulnerable adult who has been
2		abus	ed by the member of the supportive community; or
3	(2)	The	member of the supportive community is:
4		(A)	Confirmed as the perpetrator of abuse of the
5			qualified adult, any other qualified adult, or
6			any vulnerable adult;
7		(B)	Convicted of a crime against a vulnerable adult
8			or in which the member otherwise intentionally
9			caused physical harm to another;
10		(C)	Convicted of a financial crime; or
11		(D)	Convicted of the offense of theft in the first,
12			second, third, or fourth degree.
13	(e)	A su	pported decision-making agreement, or the
14	execution	of a	supported decision-making agreement, shall not be
15	used as e	viden	ce of incapacity or incompetency of the qualified
16	adult and	shal	l not preclude an adult with a functional
17	impairmen	t who	has entered into such an agreement from acting
18	independe	ntly	of the agreement.
19	(f)	The	existence of a supported decision-making agreement

20 shall not preclude a qualified adult from seeking personal

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1 information on their own without the assistance of the member of 2 the supportive community.

3

-5 Reliance on agreement; limitation of liability. S 4 A person who receives the original or a copy of the (a) 5 supported decision-making agreement shall rely on the agreement 6 and its authority to assist as presented.

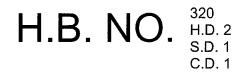
7 (b) A person shall not be subject to criminal or civil 8 liability and shall not be deemed to have engaged in 9 professional misconduct for an act or omission if the act or 10 omission is done in good faith and in reliance on a supported 11 decision-making agreement and its authority to assist as 12 presented."

13 SECTION 2. If any provision of this Act, or the 14 application thereof to any person or circumstance, is held 15 invalid, the invalidity does not affect other provisions or 16 applications of the Act that can be given effect without the 17 invalid provision or application, and to this end the provisions 18 of this Act are severable.

19

SECTION 3. This Act shall take effect upon its approval.

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#### Report Title:

Supported Decision-Making Agreement; Qualified Adults; Supportive Community; Terms; Restrictions

### Description:

Allows qualified adults, including adults with a disability, mentally ill adults, and adults sixty-five years of age or older, to enter into supported decision-making agreements with one or more members of a supportive community. Specifies the terms of a supported decision-making agreement, including access to personal information, agreement requirements, and circumstances for termination. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

