

SB55 ENROLLED



1 0W11GC-3
2 By Senators Orr, Singleton, Coleman-Madison, Scofield,
3 Hatcher, Jones, Albritton, Melson, Waggoner, Allen, Barfoot,
4 Butler, Elliott, Weaver, Sessions, Williams, Chesteen,
5 Figures, Kelley, Price, Roberts
6 RFD: Judiciary
7 First Read: 07-Mar-23
8
9 2023 Regular Session



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1 Enrolled, An Act,

2
3 Relating to guardianships and conservatorships; to
4 create the Colby Act; to provide for a supported
5 decision-making agreement as an alternative to a guardianship
6 or conservatorship; and to provide the scope and limitations
7 of a supported decision-making agreement.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. This act shall be known and may be cited as
10 the Colby Act.

11 Section 2. For the purposes of this act, the following
12 terms have the following meanings:

13 (1) SUPPORTED DECISION-MAKING. The process of
14 supporting and accommodating an adult in the decision-making
15 process without impeding the self-determination of the adult.
16 This term includes assistance in making, communicating, and
17 effectuating life decisions.

18 (2) SUPPORTED DECISION-MAKING AGREEMENT. A written
19 agreement detailing decision-making supports and
20 accommodations that an adult chooses to receive from one or
21 more supporters.

22 (3) SUPPORTER. An individual at least 18 years of age
23 who has voluntarily entered into a supported decision-making
24 agreement with an adult and is designated as such in a
25 supported decision-making agreement.

26 Section 3. (a) An adult may not enter into a supported
27 decision-making agreement as an alternative to guardianship or
28 conservatorship unless the adult meets both of the following



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29 conditions:

30 (1) The adult enters into the agreement voluntarily and
31 without coercion or undue influence.

32 (2) The adult understands the nature and effect of the
33 agreement.

34 (b) An adult may make, change, or revoke a supported
35 decision-making agreement.

36 (c) A court may not consider an adult's execution of a
37 supported decision-making agreement as evidence of the adult's
38 incapacity. The existence of an executed supported
39 decision-making agreement does not preclude the adult from
40 acting independently of the supported decision-making
41 agreement.

42 (d) An adult may not enter into a supported
43 decision-making agreement under this section if the agreement
44 supplants the authority of a guardian or conservator of the
45 adult.

46 (e) No third-party individual or entity may require an
47 adult to execute a supported decision-making agreement for any
48 purpose. For the purposes of this act, the term "third-party
49 individual or entity" does not include a guardian or
50 conservator.

51 Section 4. A document substantially in the following
52 format may be used to create a supported decision-making
53 agreement that has the meaning and effect prescribed by this
54 act.

55 This document IS _____ / IS NOT _____
56 (check one) legally binding. Only a person with the legal



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57 right and capacity to contract can make a legally binding
58 agreement.

59 I, _____ (Name of Principal), make
60 this supported decision-making agreement to choose supporters
61 to help me make decisions. I am choosing to make this
62 agreement. I may end this agreement at any time. These
63 supporters DO NOT make decisions for me. They give me
64 information, advice, and other support so I can make decisions
65 for myself.

66 DESIGNATION OF SUPPORTERS

67 HEALTH CARE

68
69 I DO _____ / DO NOT _____ (check one)
70 want help with health care. I want the following people to be
71 my supporters and help me with my health care decisions:

72 Name of Supporter:

73 _____

74 Relationship to Principal:

75 _____

76 Repeat as needed for each supporter.

77 I, _____ (Name of Principal), allow these
78 supporters to help me make decisions about my physical and
79 mental health. These people do not make decisions for me -
80 they help me make decisions myself.

81 These supporters can help me in these ways:

82 _____

83 These supporters MAY NOT do these things:

84 _____



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85 FINANCIAL DECISION-MAKING
86 I DO _____ / DO NOT _____ (check one)
87 want help with my financial decisions. I want the following
88 people to be my supporters and help me with my financial
89 decisions:

90 Name of Supporter:
91 _____
92 Relationship to Principal:
93 _____

94 Repeat as needed for each supporter.

95 I, _____ (Name of Principal), allow these
96 supporters to help me make decisions about my finances. These
97 people do not make decisions for me - they help me make
98 decisions myself.

99 These supporters can help me in these ways:

100 _____

101 These supporters MAY NOT do these things:

102 _____

103 WHERE I LIVE AND COMMUNITY LIVING

104 I DO _____ / DO NOT _____ (check one)

105 want help with decisions about where I live and community
106 living. I want the following people to be my supporters and
107 help me with decisions about where I live:

108 Name of Supporter:
109 _____

110 Relationship to Principal:
111 _____

112 Repeat as needed for each supporter.



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113 I, _____ (Name of Principal), allow these
114 supporters to help me make decisions about where I live and
115 community living. These people do not make decisions for me -
116 they help me make decisions myself.

117 These supporters can help me in these ways:

118 _____

119 These supporters MAY NOT do these things:

120 _____

121 EDUCATION

122

123 I DO _____ / DO NOT _____ (check one)

124 want help with decisions about my education. I want the
125 following people to be my supporters and help me with
126 decisions about my education:

127 Name of Supporter:

128 _____

129 Relationship to Principal:

130 _____

131 Repeat as needed for each supporter.

132 I, _____ (Name of Principal), allow these
133 supporters to help me make decisions about my education. These
134 people do not make decisions for me - they help me make
135 decisions myself.

136 These supporters can help me in these ways:

137 _____

138 These supporters MAY NOT do these things:

139 _____

140 EMPLOYMENT



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141
142 I DO _____ / DO NOT _____ (check one)
143 want help with employment. I want the following people to be
144 my supporters and help me with my employment:

145 Name of Supporter:
146 _____

147 Relationship to Principal:
148 _____

149 Repeat as needed for each supporter.

150 I, _____ (Name of Principal), allow these
151 supporters to help me make decisions about my employment.
152 These people do not make decisions for me - they help me make
153 decisions myself.

154 These supporters can help me in these ways:
155 _____

156 These supporters MAY NOT do these things:
157 _____

158 OTHER DECISIONS

159
160 I DO _____ / DO NOT _____ (check one)
161 want help with other decisions. I want the following people to
162 be my supporters and help me with other decisions:

163 Name of Supporter:
164 _____

165 Relationship to Principal:
166 _____

167 Repeat as needed for each supporter.

168 I, _____ (Name of Principal), allow these



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169 supporters to help me make certain decisions. These people do
170 not make decisions for me - they help me make decisions
171 myself.

172 These supporters can help me in these ways:

173 _____

174 These supporters MAY NOT do these things:

175 _____

176 SIGNATURE AND ACKNOWLEDGMENT

177 I agree to be a supporter under this agreement.

178 (Signature of Supporter):

179 _____

180 Signature Date:

181 _____

182 Supporter Name Printed:

183 _____

184 Supporter Address:

185 _____

186 Supporter Telephone Number:

187 _____

188 Supporter E-mail Address:

189 _____

190 Repeat as needed for each supporter listed in the
191 supported decision-making agreement.

192 (Signature of Principal):

193 _____

194 Your Signature Date:

195 _____

196 Your Name Printed:



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197 _____

198 Your Address:

199 _____

200 Your Telephone Number:

201 _____

202

203

204 State of:

205 _____

206 [County] of

207 _____

208 I, _____, a Notary Public, in and for the County
209 in this State, hereby certify that _____, whose name is
210 signed to the foregoing document, and who is known to me,
211 acknowledged before me on this day that, being informed of the
212 contents of the document, he or she executed the same
213 voluntarily on the day the same bears date.

214 Given under my hand this the _____ day of
215 _____, 2___.

216 _____

217 (Seal, if any)

218 Signature of Notary

219

220 My commission expires:

221 _____

222 [This document prepared by:

223 _____]

224



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225 Section 5.(a) A supporter shall do all of the
226 following:

227 (1) Support the will and preference of the adult and
228 not the supporter's opinion of the adult's best interest.

229 (2) Act honestly, diligently, and in good faith.

230 (3) Act within the scope set forth in the adult's
231 supported decision-making agreement.

232 (4) Avoid conflicts of interest.

233 (5) Timely notify the adult in writing, in the adult's
234 preferred language and mode of communication, of his or her
235 intent to resign as a supporter.

236 (b) A supporter is a fiduciary and shall make and
237 communicate decisions in cooperation with the adult and
238 preserve the adult's authority to make decisions.

239 (c) A supporter shall not do any of the following:

240 (1) Exert undue influence upon the adult.

241 (2) Receive a fee or compensation for services
242 performed in the role of supporter.

243 (3) Obtain, without the consent of the adult,
244 information for a purpose other than assisting the adult in
245 making a specific decision authorized by the supported
246 decision-making agreement.

247 (4) Obtain, without the consent of the adult, nonpublic
248 personal information, as defined by 15 U.S.C. § 6809(4).

249 (5) Act outside the scope of authority provided in the
250 supported decision-making agreement.

251 (d) A supporter who is expressly given relevant
252 authority in a power of attorney may act within the scope of



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253 that authority to sign instructions or other documents on
254 behalf of the adult, or to communicate or implement decisions
255 made by the adult.

256 (e) A request or decision made or communicated with the
257 assistance of a supporter in conformity with the supported
258 decision-making agreement shall be recognized as the request
259 or decision of the adult for the purposes of any provision of
260 law.

261 Section 6. (a) A supported decision-making agreement
262 shall meet all of the following requirements:

263 (1) Name at least one supporter.

264 (2) Describe the decision-making assistance that each
265 supporter may provide to the adult and how supporters may work
266 together.

267 (3) If the adult is subject to a limited guardianship
268 or conservatorship as provided by Section ~~6~~ 7, be executed by
269 the adult's guardian or conservator.

270 (4) Be in writing, dated, and signed by the adult in
271 the presence of a notary public.

272 (5) Contain a separate consent signed by each supporter
273 named in the agreement indicating each of the following:

274 a. The supporter's relationship to the adult.

275 b. The supporter's willingness to act as a supporter.

276 c. The supporter's acknowledgment of his or her duties
277 as a supporter.

278 (b) A supported decision-making agreement may do any of
279 the following:

280 (1) Appoint more than one supporter.



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281 (2) Appoint an alternate supporter to act in the place
282 of a supporter under circumstances specified in the agreement.

283 (3) Authorize a supporter to share information with any
284 other supporter or others named in the agreement.

285 Section 7. An adult may revoke a supported
286 decision-making agreement at any time. A revocation under this
287 section shall be in writing, and a copy of the revocation
288 shall be provided to each supporter.

289 (b) Except as provided in the supported decision-making
290 agreement, a supported decision-making agreement terminates in
291 each the following situations:

292 (1) The adult who is the subject of the supported
293 decision-making agreement dies.

294 (2) The adult who is the subject of the supported
295 decision-making agreement revokes the agreement under
296 subsection (a).

297 (3) All of the named supporters withdraw their
298 participation without arranging for successor supporters
299 approved by the adult.

300 (4) A court of competent jurisdiction determines that
301 the adult does not have the capacity to execute or consent to
302 a supported decision-making agreement.

303 (5) A court of competent jurisdiction determines that a
304 supporter has used the supported decision-making agreement to
305 financially exploit, abuse, or neglect the adult.

306 (6) A court of competent jurisdiction appoints a
307 temporary or permanent guardian or conservator for the person
308 or property of the adult, unless the court's order of



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309 appointment does each of the following:

310 a. Expressly modifies, but continues, the supported
311 decision-making agreement alongside a partial guardianship or
312 conservatorship.

313 b. Limits the powers and duties of the guardian or
314 conservator.

315 (7) The adult signs a valid durable power of attorney,
316 except to the extent that the power of attorney expressly
317 continues, in whole or in part, the supported decision-making
318 agreement.

319 (c) The court may enter an order pursuant to
320 subdivision (b) (4), (b) (5), or (b) (6) only after providing
321 notice and a hearing to the adult and all supporters named in
322 the agreement.

323 Section 8. A supported decision-making agreement that
324 complies with Section ~~3~~ 4 is presumed valid. A party may rely
325 on the presumption of validity unless the party has actual
326 knowledge that the supported decision-making agreement was not
327 validly executed.

328 Section 9. (a) A person who in good faith relies on an
329 authorization in a supported decision-making agreement is not
330 subject to discipline for unprofessional conduct.

331 (b) This section does not apply to a person whose act
332 or omission amounts to fraud, misrepresentation, recklessness,
333 or willful or wanton misconduct.

334 Section 10. (a) The meaning and effect of a supported
335 decision-making agreement is determined by the law of the
336 jurisdiction in which the supported decision-making agreement



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337 was executed, unless the supported decision-making agreement
338 provides otherwise.

339 (b) A person who receives a copy of a supported
340 decision-making agreement or is aware of the existence of a
341 supported decision-making agreement and reasonably believes
342 that an adult is being abused, neglected, or exploited shall
343 report the alleged abuse, neglect, or exploitation to an adult
344 protective services agency or an authorized law enforcement
345 agency.

346 Section 11. This act shall become effective on the
347 first day of the third month following its passage and
348 approval by the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB55

Senate 05-Apr-23

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 20-Apr-23

Senate concurred in House amendment 27-Apr-23

By: Senator Orr