

JAN 17 2025

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 § -1 **Definitions.** 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.



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

11 "Supported decision-making" means a process where a
12 qualified adult has made or is making decisions by using
13 friends, family members, professionals, or other people the
14 qualified adult trusts to:

- 15 (1) Help understand the issues and choices;
- 16 (2) Answer questions;
- 17 (3) Provide explanations in a language the qualified adult
18 understands;
- 19 (4) Communicate the qualified adult's decision to others,
20 if necessary and if specifically requested by the
21 qualified adult; or



1 (5) Facilitate the exercise of decisions regarding the
2 qualified adult's day-to-day health, safety, welfare,
3 or financial affairs.

4 "Supported decision-making agreement" or "agreement" means
5 a voluntary agreement entered into pursuant to this chapter
6 between a qualified adult and one or more members of the
7 supportive community.

8 § -2 **Supported decision-making agreement; term.** (a) A
9 qualified adult may voluntarily, without undue influence or
10 coercion, enter into a supported decision-making agreement with
11 one or more members of the supportive community; provided that
12 the supported decision-making agreement shall not adversely
13 affect the decision-making authority granted to a court-
14 appointed guardian or court-appointed conservator.

15 (b) Under the supported decision-making agreement, the
16 qualified adult may request the member of the supportive
17 community to do any or all of the following:

18 (1) Provide supported decision-making, including
19 assistance in understanding the options,
20 responsibilities, and consequences of the adult's life



1 decisions, without making those decisions on behalf of
2 the qualified adult;

3 (2) Assist in accessing, collecting, obtaining, and
4 understanding information that is relevant to a given
5 life decision from any person, including but not
6 limited to:

7 (A) Medical, psychological, financial, educational,
8 occupational, and social decisions;

9 (B) Treatment records;

10 (C) How and in what relationships the qualified adult
11 chooses to engage; and

12 (D) Information about how a supportive community is
13 chosen; or

14 (3) Assist the qualified adult in communicating the
15 qualified adult's decisions to appropriate persons
16 when expressly requested by the qualified adult.

17 (c) A member of the supportive community shall not be
18 entitled to compensation or other consideration, in cash or in
19 kind, for assistance provided to the qualified adult for the
20 purposes of a supportive decision-making agreement.



1 § -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.

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

13 (c) A member of the supportive community who obtains
14 information pursuant to this section shall only use the
15 information for the specific purposes requested by the qualified
16 adult. Any misuse of information obtained pursuant to this
17 section may subject the member of the supportive community to
18 criminal and civil liability.

19 § -4 **Supported decision-making agreement; requirements;
20 termination.** (a) A supported decision-making agreement may be



1 in any form but shall be valid only if it contains, at a
2 minimum, the following:

3 (1) The name of the qualified adult;

4 (2) The name, address, phone number, and electronic mail
5 address of the member of the supportive community, if
6 applicable;

7 (3) A list of decisions for which the qualified adult
8 requests advice from the member of the supportive
9 community;

10 (4) A description of the agreement terms, including, at a
11 minimum, the terms under which the member of the
12 supportive community agrees to:

13 (A) Provide information as requested by the qualified
14 adult;

15 (B) Respect that the final and ultimate decision is
16 the qualified adult's and not the member of the
17 supportive community's;

18 (C) Not coerce or manipulate the qualified adult into
19 making any decision; and

20 (D) Provide the most up-to-date and relevant
21 information to the qualified adult based on all



1 the available and known information the member of
2 the supportive community has;

3 (5) A notice that any person, as described in section
4 346-224(a), who is relying on the supported decision-
5 making agreement and has cause to believe that the
6 qualified adult is being mistreated or abused by the
7 member of the supportive community shall report the
8 alleged mistreatment or abuse to the department of
9 human services; and

10 (6) The day, month, and year the supported decision-making
11 agreement was entered into.

12 (b) A supported decision-making agreement shall be signed
13 voluntarily, without coercion or undue influence, by the
14 qualified adult and each member of the supportive community in
15 the presence of two or more attesting and disinterested
16 witnesses who are eighteen years of age or older, or a notary
17 public.

18 (c) The supported decision-making agreement shall be
19 effective until terminated by either the qualified adult or the
20 member of the supportive community, or by the terms of the
21 agreement. Any party may choose to terminate the agreement at



1 any time by providing written or verbal notice of the
2 termination to all parties to the supported decision-making
3 agreement.

4 (d) The supported decision-making agreement shall
5 automatically be terminated if:

6 (1) After investigating a member of the supportive
7 community for mistreatment or abuse of the qualified
8 adult, the department of human services finds that the
9 qualified adult has been mistreated or abused by the
10 member of the supportive community; or

11 (2) The member of the supportive community is:

12 (A) Substantiated in a case of mistreatment or abuse
13 of the qualified adult, any other qualified
14 adult, or any vulnerable adult;

15 (B) Convicted of a crime against a vulnerable adult
16 or in which the member otherwise intentionally
17 caused physical harm to another;

18 (C) Convicted of a financial crime; or

19 (D) Found to have committed theft in the first,
20 second, third, or fourth degree.



1 For the purposes of this paragraph, "vulnerable adult"
2 has the same meaning as defined in section 346-222.

3 (e) A supported decision-making agreement shall not be
4 used as evidence of incapacity of the qualified adult.

5 (f) The existence of a supported decision-making agreement
6 shall not preclude a qualified adult from seeking personal
7 information on their own without the assistance of the member of
8 the supportive community.

9 § -5 **Reliance on agreement; limitation of liability.**

10 (a) A person who receives the original or a copy of the
11 supported decision-making agreement shall rely on the agreement
12 and its authority to assist as presented.

13 (b) A person shall not be subject to criminal or civil
14 liability and shall not be deemed to have engaged in
15 professional misconduct for an act or omission if the act or
16 omission is done in good faith and in reliance on a supported
17 decision-making agreement and its authority to assist as
18 presented."

19 SECTION 2. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

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

5

INTRODUCED BY:

Karl Rhoads



S.B. NO. 776

Report Title:

Supported Decision-Making Agreement; Qualified Adults; 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 members of a supportive community. Specifies the terms of a supported decision-making agreement, including access to personal information and agreement requirements.

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

