

SB55 ENGROSSED



1    0W11GC-2  
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  
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## SB55 Engrossed

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A BILL  
TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

(3) SUPPORTER. An individual at least 18 years of age



## SB55 Engrossed

29 who has voluntarily entered into a supported decision-making  
30 agreement with an adult and is designated as such in a  
31 supported decision-making agreement.

32 Section 3. (a) An adult may not enter into a supported  
33 decision-making agreement as an alternative to guardianship or  
34 conservatorship unless the adult meets both of the following  
35 conditions:

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

38 (2) The adult understands the nature and effect of the  
39 agreement.

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

42 (c) A court may not consider an adult's execution of a  
43 supported decision-making agreement as evidence of the adult's  
44 incapacity. The existence of an executed supported  
45 decision-making agreement does not preclude the adult from  
46 acting independently of the supported decision-making  
47 agreement.

48 (d) An adult may not enter into a supported  
49 decision-making agreement under this section if the agreement  
50 supplants the authority of a guardian or conservator of the  
51 adult.

52 (e) No third-party individual or entity may require an  
53 adult to execute a supported decision-making agreement for any  
54 purpose. For the purposes of this act, the term "third-party  
55 individual or entity" does not include a guardian or  
56 conservator.



**SB55 Engrossed**

57 Section 4. A document substantially in the following  
58 format may be used to create a supported decision-making  
59 agreement that has the meaning and effect prescribed by this  
60 act.

61 This document IS \_\_\_\_\_ / IS NOT \_\_\_\_\_  
62 (check one) legally binding. Only a person with the legal  
63 right and capacity to contract can make a legally binding  
64 agreement.

65 I, \_\_\_\_\_ (Name of Principal), make  
66 this supported decision-making agreement to choose supporters  
67 to help me make decisions. I am choosing to make this  
68 agreement. I may end this agreement at any time. These  
69 supporters DO NOT make decisions for me. They give me  
70 information, advice, and other support so I can make decisions  
71 for myself.

72 DESIGNATION OF SUPPORTERS

73 HEALTH CARE

74  
75 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

76 want help with health care. I want the following people to be  
77 my supporters and help me with my health care decisions:

78 Name of Supporter:  
79 \_\_\_\_\_

80 Relationship to Principal:  
81 \_\_\_\_\_

82 Repeat as needed for each supporter.

83 I, \_\_\_\_\_ (Name of Principal), allow these  
84 supporters to help me make decisions about my physical and



**SB55 Engrossed**

85 mental health. These people do not make decisions for me -  
86 they help me make decisions myself.

87 These supporters can help me in these ways:

88 \_\_\_\_\_

89 These supporters MAY NOT do these things:

90 \_\_\_\_\_

91 FINANCIAL DECISION-MAKING

92 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

93 want help with my financial decisions. I want the following  
94 people to be my supporters and help me with my financial  
95 decisions:

96 Name of Supporter:

97 \_\_\_\_\_

98 Relationship to Principal:

99 \_\_\_\_\_

100 Repeat as needed for each supporter.

101 I, \_\_\_\_\_ (Name of Principal), allow these  
102 supporters to help me make decisions about my finances. These  
103 people do not make decisions for me - they help me make  
104 decisions myself.

105 These supporters can help me in these ways:

106 \_\_\_\_\_

107 These supporters MAY NOT do these things:

108 \_\_\_\_\_

109 WHERE I LIVE AND COMMUNITY LIVING

110 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

111 want help with decisions about where I live and community  
112 living. I want the following people to be my supporters and



**SB55 Engrossed**

113 help me with decisions about where I live:

114 Name of Supporter:

115 \_\_\_\_\_

116 Relationship to Principal:

117 \_\_\_\_\_

118 Repeat as needed for each supporter.

119 I, \_\_\_\_\_ (Name of Principal), allow these  
120 supporters to help me make decisions about where I live and  
121 community living. These people do not make decisions for me -  
122 they help me make decisions myself.

123 These supporters can help me in these ways:

124 \_\_\_\_\_

125 These supporters MAY NOT do these things:

126 \_\_\_\_\_

127 EDUCATION

128  
129 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

130 want help with decisions about my education. I want the  
131 following people to be my supporters and help me with  
132 decisions about my education:

133 Name of Supporter:

134 \_\_\_\_\_

135 Relationship to Principal:

136 \_\_\_\_\_

137 Repeat as needed for each supporter.

138 I, \_\_\_\_\_ (Name of Principal), allow these  
139 supporters to help me make decisions about my education. These  
140 people do not make decisions for me - they help me make



**SB55 Engrossed**

141 decisions myself.

142 These supporters can help me in these ways:

143 \_\_\_\_\_

144 These supporters MAY NOT do these things:

145 \_\_\_\_\_

146 EMPLOYMENT

147

148 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

149 want help with employment. I want the following people to be

150 my supporters and help me with my employment:

151 Name of Supporter:

152 \_\_\_\_\_

153 Relationship to Principal:

154 \_\_\_\_\_

155 Repeat as needed for each supporter.

156 I, \_\_\_\_\_ (Name of Principal), allow these

157 supporters to help me make decisions about my employment.

158 These people do not make decisions for me - they help me make

159 decisions myself.

160 These supporters can help me in these ways:

161 \_\_\_\_\_

162 These supporters MAY NOT do these things:

163 \_\_\_\_\_

164 OTHER DECISIONS

165

166 I DO \_\_\_\_\_ / DO NOT \_\_\_\_\_ (check one)

167 want help with other decisions. I want the following people to

168 be my supporters and help me with other decisions:



**SB55 Engrossed**

169 Name of Supporter:

170 \_\_\_\_\_

171 Relationship to Principal:

172 \_\_\_\_\_

173 Repeat as needed for each supporter.

174 I, \_\_\_\_\_ (Name of Principal), allow these  
175 supporters to help me make certain decisions. These people do  
176 not make decisions for me - they help me make decisions  
177 myself.

178 These supporters can help me in these ways:

179 \_\_\_\_\_

180 These supporters MAY NOT do these things:

181 \_\_\_\_\_

182 SIGNATURE AND ACKNOWLEDGMENT

183 I agree to be a supporter under this agreement.

184 (Signature of Supporter):

185 \_\_\_\_\_

186 Signature Date:

187 \_\_\_\_\_

188 Supporter Name Printed:

189 \_\_\_\_\_

190 Supporter Address:

191 \_\_\_\_\_

192 Supporter Telephone Number:

193 \_\_\_\_\_

194 Supporter E-mail Address:

195 \_\_\_\_\_

196 Repeat as needed for each supporter listed in the





**SB55 Engrossed**

197 supported decision-making agreement.

198 (Signature of Principal):

199 \_\_\_\_\_

200 Your Signature Date:

201 \_\_\_\_\_

202 Your Name Printed:

203 \_\_\_\_\_

204 Your Address:

205 \_\_\_\_\_

206 Your Telephone Number:

207 \_\_\_\_\_

208

209

210 State of:

211 \_\_\_\_\_

212 [County] of

213 \_\_\_\_\_

214 I, \_\_\_\_\_, a Notary Public, in and for the County

215 in this State, hereby certify that \_\_\_\_\_, whose name is

216 signed to the foregoing document, and who is known to me,

217 acknowledged before me on this day that, being informed of the

218 contents of the document, he or she executed the same

219 voluntarily on the day the same bears date.

220 Given under my hand this the \_\_\_\_\_ day of

221 \_\_\_\_\_, 2\_\_\_.

222 \_\_\_\_\_

223 (Seal, if any)

224 Signature of Notary



## SB55 Engrossed

225

226

My commission expires:

227

\_\_\_\_\_

228

[This document prepared by:

229

\_\_\_\_\_]

230

231

Section 5.(a) A supporter shall do all of the

232

following:

233

(1) Support the will and preference of the adult and

234

not the supporter's opinion of the adult's best interest.

235

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

236

(3) Act within the scope set forth in the adult's

237

supported decision-making agreement.

238

(4) Avoid conflicts of interest.

239

(5) Timely notify the adult in writing, in the adult's

240

preferred language and mode of communication, of his or her

241

intent to resign as a supporter.

242

(b) A supporter is a fiduciary and shall make and

243

communicate decisions in cooperation with the adult and

244

preserve the adult's authority to make decisions.

245

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

246

(1) Exert undue influence upon the adult.

247

(2) Receive a fee or compensation for services

248

performed in the role of supporter.

249

(3) Obtain, without the consent of the adult,

250

information for a purpose other than assisting the adult in

251

making a specific decision authorized by the supported

252

decision-making agreement.



## SB55 Engrossed

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

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

257 (d) A supporter who is expressly given relevant  
258 authority in a power of attorney may act within the scope of  
259 that authority to sign instructions or other documents on  
260 behalf of the adult, or to communicate or implement decisions  
261 made by the adult.

262 (e) A request or decision made or communicated with the  
263 assistance of a supporter in conformity with the supported  
264 decision-making agreement shall be recognized as the request  
265 or decision of the adult for the purposes of any provision of  
266 law.

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

269 (1) Name at least one supporter.

270 (2) Describe the decision-making assistance that each  
271 supporter may provide to the adult and how supporters may work  
272 together.

273 (3) If the adult is subject to a limited guardianship  
274 or conservatorship as provided by Section 6, be executed by  
275 the adult's guardian or conservator.

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

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

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



## SB55 Engrossed

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

282 c. The supporter's acknowledgment of his or her duties  
283 as a supporter.

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

286 (1) Appoint more than one supporter.

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

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

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

295 (b) Except as provided in the supported decision-making  
296 agreement, a supported decision-making agreement terminates in  
297 each the following situations:

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

300 (2) The adult who is the subject of the supported  
301 decision-making agreement revokes the agreement under  
302 subsection (a).

303 (3) All of the named supporters withdraw their  
304 participation without arranging for successor supporters  
305 approved by the adult.

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



## SB55 Engrossed

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

312 (6) A court of competent jurisdiction appoints a  
313 temporary or permanent guardian or conservator for the person  
314 or property of the adult, unless the court's order of  
315 appointment does each of the following:

316 a. Expressly modifies, but continues, the supported  
317 decision-making agreement alongside a partial guardianship or  
318 conservatorship.

319 b. Limits the powers and duties of the guardian or  
320 conservator.

321 (7) The adult signs a valid durable power of attorney,  
322 except to the extent that the power of attorney expressly  
323 continues, in whole or in part, the supported decision-making  
324 agreement.

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

329 Section 8. A supported decision-making agreement that  
330 complies with Section 5 is presumed valid. A party may rely on  
331 the presumption of validity unless the party has actual  
332 knowledge that the supported decision-making agreement was not  
333 validly executed.

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



## SB55 Engrossed

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

340           Section 10. (a) The meaning and effect of a supported  
341 decision-making agreement is determined by the law of the  
342 jurisdiction in which the supported decision-making agreement  
343 was executed, unless the supported decision-making agreement  
344 provides otherwise.

345           (b) A person who receives a copy of a supported  
346 decision-making agreement or is aware of the existence of a  
347 supported decision-making agreement and reasonably believes  
348 that an adult is being abused, neglected, or exploited shall  
349 report the alleged abuse, neglect, or exploitation to an adult  
350 protective services agency or an authorized law enforcement  
351 agency.

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



**SB55 Engrossed**

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356  
357 Senate

358 Read for the first time and referred .....07-Mar-23  
359 to the Senate committee on Judiciary  
360  
361 Read for the second time and placed .....22-Mar-23  
362 on the calendar:  
363 2 amendments  
364  
365 Read for the third time and passed .....05-Apr-23  
366 as amended  
367 Yeas 31  
368 Nays 0  
369 Abstains 0  
370

371  
372 Patrick Harris,  
373 Secretary.  
374