

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**S. B. No. 35**

**Senators Cirino, Reynolds  
Cosponsor: Senator Wilkin**

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**A BILL**

To enact sections 5123.68, 5123.681, 5123.682,  
5123.683, 5123.684, 5123.685, and 5123.686 of  
the Revised Code to establish supported  
decision-making as a less restrictive  
alternative to guardianship for adults with  
developmental disabilities.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5123.68, 5123.681, 5123.682,  
5123.683, 5123.684, 5123.685, and 5123.686 of the Revised Code  
be enacted to read as follows:

**Sec. 5123.68.** As used in sections 5123.68 to 5123.686 of  
the Revised Code:

(A) "Principal" means an adult with a developmental  
disability who seeks to enter, or has entered, into a supported  
decision-making plan.

(B) "Supported decision-making" means the process of  
supporting and accommodating an adult with a developmental  
disability who is making, communicating, or implementing the  
adult's own life decisions without impeding the adult's self-

determination. 19

"Supported decision-making" may include any matter 20  
impacting the adult's life. 21

(C) "Supported decision-making plan" is a plan between an 22  
adult with a developmental disability and one or more supporters 23  
chosen by the adult that may be informal and occur naturally or 24  
may be formal and documented through a written plan entered into 25  
pursuant to section 5123.683 of the Revised Code. 26

(D) "Supporter" means an adult person chosen by an adult 27  
with a developmental disability to support the adult with a 28  
developmental disability in a supported decision-making plan. 29

**Sec. 5123.681.** (A) Based on the principle that all adults 30  
with developmental disabilities should be afforded all of the 31  
rights set forth in section 5123.62 of the Revised Code, all 32  
adults with developmental disabilities are presumed to be 33  
capable of making decisions regarding their lives and activities 34  
of daily living and are presumed to be competent to handle their 35  
own affairs, unless otherwise determined by a court of competent 36  
jurisdiction. 37

(B) The fact that an adult has a developmental disability 38  
does not, by itself, void the presumption of capacity and 39  
competency described in division (A) of this section. 40

(C) The manner in which an adult with a developmental 41  
disability communicates with others is not grounds for a finding 42  
that the adult is incapable of managing the adult's affairs or 43  
of entering into a supported decision-making plan. 44

(D) Execution of a supported decision-making plan by an 45  
adult with a developmental disability is not evidence of 46  
incapacity and shall not be used as such. 47

(E) An adult with a developmental disability who has 48  
entered into a supported decision-making plan is not precluded 49  
from acting independently of the plan, acting independently of 50  
one or more supporters identified in the plan, or seeking 51  
personal information without the assistance of a supporter. The 52  
adult's choice to act independently of the plan or a supporter 53  
is not evidence of incapacity and shall not be used as such. 54

(F) Evidence of either a formal or informal supported 55  
decision-making plan may be presented as a less restrictive 56  
alternative to guardianship pursuant to division (C) (5) of 57  
section 2111.02 of the Revised Code. 58

(G) No adult with a developmental disability shall be 59  
required to enter into a supported decision-making plan. 60

**Sec. 5123.682.** (A) A supported decision-making plan may be 61  
created at the request and with the active participation of the 62  
principal. A supported decision-making plan may be established 63  
by either of the following: 64

(1) Pursuant to a written plan in accordance with section 65  
5123.683 of the Revised Code; 66

(2) Naturally, without a written plan, when an adult with 67  
a developmental disability relies upon natural supports or 68  
chosen supporters to assist with decisions in the adult's daily 69  
life. 70

(B) The department of developmental disabilities shall 71  
develop both of the following: 72

(1) A model written supported decision-making plan that 73  
may be used by a principal and one or more supporters; 74

(2) Informational materials about formal and informal 75

supported decision-making plans, intended for use by all of the 76  
following: 77

(a) Adults with developmental disabilities; 78

(b) Family members of adults with developmental 79  
disabilities; 80

(c) Social service, medical service, and financial service 81  
professionals and other professionals likely to encounter 82  
supported decision-making plans; 83

(d) The general public. 84

**Sec. 5123.683.** (A) A written supported decision-making 85  
plan shall be executed in accordance with this section. 86

(B) (1) The written plan shall be entered into by the adult 87  
with a developmental disability as the principal and one or more 88  
supporters. 89

(2) The plan shall be signed and acknowledged voluntarily, 90  
without coercion or undue influence, by the principal. 91

The principal's signature shall be witnessed by either a 92  
notary public or two adult witnesses who are not parties to the 93  
supported decision-making plan. The witnesses must attest that 94  
the plan was signed of the principal's own free will and accord. 95

**Sec. 5123.684.** (A) Except as otherwise limited by the 96  
principal, and pursuant to the principal's authority under 97  
division (E) of section 5123.681 of the Revised Code, a 98  
supporter may assist the principal with all of the following: 99

(1) Understanding information, options, responsibilities, 100  
and consequences associated with making decisions; 101

(2) Communicating the decisions to third parties; 102

(3) Obtaining and understanding information relevant to 103  
life decisions, including medical, psychological, financial, 104  
employment, medicaid, educational, or other records; 105

(4) Monitoring information about the principal's affairs 106  
and services, including future services; 107

(5) Understanding the principal's personal values, 108  
beliefs, and preferences, including the principal's cultural, 109  
ethnic, or religious heritage, and using this information to 110  
advocate for the implementation of the principal's wishes and 111  
decisions; 112

(6) Accompanying the principal and participating in 113  
discussions with third parties. 114

(B) (1) The supporter shall assist the principal in 115  
accessing, collecting, or obtaining only information that is 116  
relevant to a decision authorized by the supported decision- 117  
making plan. 118

(2) If the supporter assists the principal in accessing, 119  
collecting, or obtaining personal information protected under 120  
the "Health Insurance Portability and Accountability Act of 121  
1996," 42 U.S.C. 1320d-2, the "Family Educational Rights and 122  
Privacy Act of 1974," 20 U.S.C. 1232g, or financial information 123  
protected under the "Financial Services Modernization Act of 124  
1999," 15 U.S.C. 6801 and 6821, the supporter shall keep the 125  
information confidential. 126

(3) The existence of a supported decision-making plan does 127  
not preclude the principal from seeking personal information 128  
without the assistance of the supporter. 129

(C) The supporter may undertake any actions permitted by 130  
the principal in the supported decision-making plan. The 131

supporter owes the principal a fiduciary duty to act in 132  
accordance with the supported decision-making plan. The 133  
supporter shall not act in contradiction to the expressed wishes 134  
or decision-making authority of the principal. 135

(D) (1) In the event the supporter has a conflict of 136  
interest or potential conflict of interest in a decision made by 137  
the principal, the supporter shall do both of the following: 138

(a) Fully disclose the conflict of interest to the 139  
principal and any other members of the principal's support team, 140  
including a service and support administrator or a qualified 141  
intellectual disability professional; 142

(b) Refrain from advising or assisting the principal on or 143  
with the decision. 144

(2) A supporter who intentionally fails to disclose a 145  
conflict of interest or who otherwise breaches the supporter's 146  
fiduciary duty to the principal is liable to the principal for 147  
all reasonable damages incurred as a result. 148

**Sec. 5123.685.** A principal may modify or end either a 149  
formal or informal supported decision-making plan at any time by 150  
notifying the supporter. A principal may modify or end a 151  
supported decision-making plan in writing and provide a copy of 152  
the written notice to the supporter. 153

**Sec. 5123.686.** (A) Nothing in sections 5123.68 to 5123.686 154  
of the Revised Code prohibits a third party from requiring the 155  
principal to execute a release of information or other document 156  
to confirm the continued validity of the supported decision- 157  
making plan or to confirm the principal's authorization of the 158  
third party to share information with a specific supporter. 159

(B) A person who acts in good faith while relying on a 160

<u>supported decision-making plan is not liable for damages in a</u>	161
<u>civil action and is not subject to criminal prosecution or</u>	162
<u>professional disciplinary action unless they have actual</u>	163
<u>knowledge that either:</u>	164
<u>(1) The supported decision-making plan has been modified</u>	165
<u>or ended pursuant to section 5123.685 of the Revised Code.</u>	166
<u>(2) The principal has not authorized the supporter to</u>	167
<u>engage in the specific action taken.</u>	168