### As Passed by the Senate

## 136th General Assembly

# Regular Session 2025-2026

Sub. S. B. No. 35

### **Senators Cirino, Reynolds**

Cosponsors: Senators Wilkin, Manning, Antonio, Blackshear, Craig, DeMora, Gavarone, Hicks-Hudson, Huffman, Ingram, Johnson, Liston, O'Brien, Patton, Reineke, Roegner, Schaffer, Smith, Timken, Weinstein, Wilson

То	enact sections 5123.68, 5123.681, 5123.682,	1
	5123.683, 5123.684, 5123.685, and 5123.686 of	2
	the Revised Code to establish supported	3
	decision-making as a less restrictive	4
	alternative to guardianship for adults with	5
	developmental disabilities.	6

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

Section 1. That sections 5123.68, 5123.681, 5123.682,	7
5123.683, 5123.684, 5123.685, and 5123.686 of the Revised Code	8
be enacted to read as follows:	9
Sec. 5123.68. As used in sections 5123.68 to 5123.686 of	10
the Revised Code:	
(A) "Principal" means an adult with a developmental	12
disability who seeks to enter, or has entered, into a supported	13
decision-making plan.	14
(B) "Supported decision-making" means the process of	15
supporting and accommodating an adult with a developmental	16
disability who is making, communicating, or implementing the	17

adult's own life decisions without impeding the adult's self-	18
<pre>determination.</pre>	19
"Supported decision-making" may include any matter	20
<pre>impacting the adult's life.</pre>	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 is formal and documented through a	24
written plan entered into pursuant to section 5123.683 of the	25
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) All adults with developmental	30
disabilities are presumed to be competent, unless otherwise	31
determined by a court of competent jurisdiction.	32
(B) The manner in which an adult with a developmental	33
disability communicates with others is not, by itself, grounds	34
for a finding that the adult is incapable of managing the	35
adult's affairs or of entering into a supported decision-making	36
plan.	37
(C) Execution of a supported decision-making plan by an	38
adult with a developmental disability is not evidence of	39
incapacity and shall not be used as such.	40
(D) An adult with a developmental disability who has	41
entered into a supported decision-making plan is not precluded	42
from acting independently of the plan, acting independently of	43
one or more supporters identified in the plan, or seeking	44
personal information without the assistance of a supporter. The	45
adult's choice to act independently of the plan or a supporter	46

is not evidence of incapacity and shall not be used as such.	47
(E) Evidence that an adult with a developmental disability	48
uses supported decision-making may be presented as a less	49
restrictive alternative to guardianship pursuant to division (C)	50
(5) of section 2111.02 of the Revised Code.	51
(F) No adult with a developmental disability shall be	52
required to enter into a supported decision-making plan.	53
(G) Nothing in sections 5123.68 to 5123.686 of the Revised	54
Code shall be construed as prohibiting an adult with a	55
developmental disability from receiving support and	56
accommodation in making, communicating, or implementing the	57
adult's own life decisions without a supported decision-making	58
plan.	59
Sec. 5123.682. (A) If an adult with a developmental	60
disability who is of sound mind voluntarily chooses to enter	61
into a supported decision-making plan, the plan shall be created	62
with the informed consent of the principal and in accordance	63
with section 5123.683 of the Revised Code.	64
(B) The department of developmental disabilities shall	65
develop both of the following:	66
(1) A model supported decision-making plan that may be	67
used by a principal and one or more supporters;	68
(2) Informational materials about supported decision-	69
making plans, intended for use by all of the following:	70
(a) Adults with developmental disabilities;	71
(b) Family members of adults with developmental	72
disabilities;	73

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(5) Understanding the principal's personal values,	101
beliefs, and preferences, including the principal's cultural,	102
ethnic, or religious heritage, and using this information to	103
advocate for the implementation of the principal's wishes and	104
<pre>decisions;</pre>	105
(6) Accompanying the principal and participating in	106
discussions with third parties.	107
(B)(1) The supporter shall assist the principal in	108
accessing, collecting, or obtaining only information that is	109
relevant to a decision authorized by the supported decision-	110
making plan.	111
(2) If the supporter assists the principal in accessing,	112
collecting, or obtaining personal information protected under	113
the "Health Insurance Portability and Accountability Act of	114
1996," 42 U.S.C. 1320d-2, the "Family Educational Rights and	115
Privacy Act of 1974," 20 U.S.C. 1232g, or financial information	116
protected under the "Financial Services Modernization Act of	117
1999," 15 U.S.C. 6801 and 6821, the supporter shall keep the	118
<pre>information confidential.</pre>	119
(3) The existence of a supported decision-making plan does	120
not preclude the principal from seeking personal information	121
without the assistance of the supporter.	122
(C) The supporter may undertake any actions permitted by	123
the principal in the supported decision-making plan. The	124
supporter shall not act in contradiction to the expressed wishes	125
or decision-making authority of the principal.	126
(D) A supporter shall act as a fiduciary for the	127
<pre>principal.</pre>	128
(E)(1) In the event the supporter has a conflict of	129

(1) The supported decision-making plan has been modified

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or ended pursuant to section 5123.685 of the Revised Code.	159	
(2) The principal has not authorized the supporter to	160	
engage in the specific action taken.	161	