

Ash, Jim, ‘Supported decision making’ bill for people with developmental disabilities clears the legislature, Florida Bar News (Mar. 6, 2024) <https://www.floridabar.org/the-florida-bar-news/supported-decision-making-bill-for-people-with-developmental-disabilities-clears-the-legislature/>

‘Supported decision making’ bill for people with developmental disabilities clears the legislature

The Legislature has signed off on a measure, crafted with the help of the Elder Law Section and the Real Property, Probate & Trust Law Section, that would create a guardianship alternative for people with developmental disabilities.

The Senate voted 40-0 on Monday to approve HB 73 by Rep. Allison Tant, D-Tallahassee. Sen. Corey Simon, R-Tallahassee, sponsored the companion, SB 446.

“Big smiles, this feels really good,” said Elder Law Section Chair Victoria Heuler, a Tallahassee attorney, moments after the vote.

Heuler said she and other Elder Law Section attorneys worked with the sponsors, Real Property, Probate & Trust Law Section representatives, and Disability Rights Florida advocates on the measure.

Moments before the final vote, Simon credited Tant, a champion for disability rights, with crafting the proposal.

“She has done an amazing job, she has worked the last four years to make sure we got all the stakeholders at the table,” Simon said.

The bill simply states that when weighing the appointment of a guardian, a court would be required to consider the person’s “ability to independently exercise his or her rights with appropriate assistance.”

The bill defines supported decision making as “an agreement in which the power of attorney grants an agent the authority to receive information and to communicate on behalf of the principal without granting the agent the authority to bind or act on behalf of the principal in any subject matter.”

The bill makes it clear that a supported decision-making agreement is “not a durable power of attorney.”

According to a staff analysis, the measure has the potential to “reduce costs to the court system for guardianship and guardian advocate proceedings to the extent that those proceedings are replaced by supported decision-making agreements.”

It’s designed to help people who can live and work independently, but who may need help navigating some challenges, she said.

Assisted decision-making agreements are a type of “assistive” or “communicative” tool, Heuler said.

“It’s a legally recognized way, an elevated, legally recognized way, to get someone to go to meetings, communicate wishes, be that assistant,” she said. “But now it’s codified in law.”