

1-1 By: Zaffirini S.B. No. 39  
 1-2 (In the Senate - Filed November 14, 2016; January 24, 2017,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 29, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 29, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 39 By: Zaffirini

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to guardianships, substitutes for guardianships, and  
 1-22 durable powers of attorney for persons with disabilities or who are  
 1-23 incapacitated.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 751.052, Estates Code, is amended to  
 1-26 read as follows:

1-27 Sec. 751.052. RELATION OF ATTORNEY IN FACT OR AGENT TO  
 1-28 COURT-APPOINTED GUARDIAN OF ESTATE. (a) If, after execution of a  
 1-29 durable power of attorney, a court [~~of the principal's domicile~~]  
 1-30 appoints a temporary or permanent guardian of the estate for a ward  
 1-31 who is [~~of~~] the principal who executed the power of attorney, on the  
 1-32 qualification of the guardian the powers and authority granted to  
 1-33 [~~of~~] the attorney in fact or agent named in the power of attorney  
 1-34 are automatically suspended for the duration of the guardianship if  
 1-35 a temporary guardian is appointed or revoked if a permanent  
 1-36 guardian is appointed unless the court enters an order that:

1-37 (1) affirms and states the effectiveness of the power  
 1-38 of attorney; and

1-39 (2) confirms the validity of the appointment of the  
 1-40 named attorney in fact or agent [~~terminate on the qualification of~~  
 1-41 the guardian of the estate].

1-42 (b) If the powers and authority of an [~~The~~] attorney in fact  
 1-43 or agent are revoked as provided by Subsection (a), the attorney in  
 1-44 fact or agent shall:

1-45 (1) deliver to the guardian of the estate all assets of  
 1-46 the ward's estate that are in the possession of the attorney in fact  
 1-47 or agent; and

1-48 (2) account to the guardian of the estate as the  
 1-49 attorney in fact or agent would account to the principal if the  
 1-50 principal had terminated the powers of the attorney in fact or  
 1-51 agent.

1-52 [~~(b) If, after execution of a durable power of attorney, a~~  
 1-53 ~~court of the principal's domicile appoints a temporary guardian of~~  
 1-54 ~~the estate of the principal, the court may suspend the powers of the~~  
 1-55 ~~attorney in fact or agent on the qualification of the temporary~~  
 1-56 ~~guardian of the estate until the date the term of the temporary~~  
 1-57 ~~guardian expires. This subsection may not be construed to prohibit~~  
 1-58 ~~the application for or issuance of a temporary restraining order~~  
 1-59 ~~under applicable law.]~~

1-60 SECTION 2. Section 751.054(a), Estates Code, is amended to

2-1 read as follows:

2-2 (a) The revocation by, the death of, or the qualification of  
2-3 a temporary or permanent guardian of the estate of a principal who  
2-4 has executed a durable power of attorney or the removal of an  
2-5 attorney in fact or agent under Chapter 753 does not revoke,  
2-6 suspend, or terminate the agency as to the attorney in fact, agent,  
2-7 or other person who acts in good faith under or in reliance on the  
2-8 power without actual knowledge of the termination or suspension, as  
2-9 applicable, of the power by:

- 2-10 (1) the revocation;
- 2-11 (2) the principal's death; [~~or~~]
- 2-12 (3) the qualification of a temporary or permanent  
2-13 guardian of the estate of the principal; or
- 2-14 (4) the attorney in fact's or agent's removal.

2-15 SECTION 3. Section 751.055(a), Estates Code, is amended to  
2-16 read as follows:

2-17 (a) As to an act undertaken in good-faith reliance on a  
2-18 durable power of attorney, an affidavit executed by the attorney in  
2-19 fact or agent under the durable power of attorney stating that the  
2-20 attorney in fact or agent did not have, at the time the power was  
2-21 exercised, actual knowledge of the termination or suspension of the  
2-22 power, as applicable, by revocation, the principal's death, the  
2-23 principal's divorce or the annulment of the principal's marriage if  
2-24 the attorney in fact or agent was the principal's spouse, [~~or~~] the  
2-25 qualification of a temporary or permanent guardian of the estate of  
2-26 the principal, or the attorney in fact's or agent's removal, is  
2-27 conclusive proof as between the attorney in fact or agent and a  
2-28 person other than the principal or the principal's personal  
2-29 representative dealing with the attorney in fact or agent of the  
2-30 nonrevocation, nonsuspension, or nontermination of the power at  
2-31 that time.

2-32 SECTION 4. Section 752.051, Estates Code, is amended to  
2-33 read as follows:

2-34 Sec. 752.051. FORM. The following form is known as a  
2-35 "statutory durable power of attorney":

2-36 STATUTORY DURABLE POWER OF ATTORNEY  
2-37 NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING.  
2-38 THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P,  
2-39 TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE  
2-40 POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT  
2-41 AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS  
2-42 FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO  
2-43 DO SO.

2-44 You should select someone you trust to serve as your agent  
2-45 (attorney in fact). Unless you specify otherwise, generally the  
2-46 agent's (attorney in fact's) authority will continue until:

- 2-47 (1) you die or revoke the power of attorney;
- 2-48 (2) your agent (attorney in fact) resigns, is removed  
2-49 by court order, or is unable to act for you; or
- 2-50 (3) a guardian is appointed for your estate.

2-51 I, \_\_\_\_\_ (insert your name and address), appoint  
2-52 \_\_\_\_\_ (insert the name and address of the person appointed) as  
2-53 my agent (attorney in fact) to act for me in any lawful way with  
2-54 respect to all of the following powers that I have initialed below.

2-55 TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN  
2-56 FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS  
2-57 LISTED IN (A) THROUGH (M).

2-58 TO GRANT A POWER, YOU MUST INITIAL THE LINE IN FRONT OF THE  
2-59 POWER YOU ARE GRANTING.

2-60 TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF THE  
2-61 POWER. YOU MAY, BUT DO NOT NEED TO, CROSS OUT EACH POWER WITHHELD.

- 2-62 \_\_\_\_\_ (A) Real property transactions;
- 2-63 \_\_\_\_\_ (B) Tangible personal property transactions;
- 2-64 \_\_\_\_\_ (C) Stock and bond transactions;
- 2-65 \_\_\_\_\_ (D) Commodity and option transactions;
- 2-66 \_\_\_\_\_ (E) Banking and other financial institution  
2-67 transactions;
- 2-68 \_\_\_\_\_ (F) Business operating transactions;
- 2-69 \_\_\_\_\_ (G) Insurance and annuity transactions;

- 3-1 \_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions;
- 3-2 \_\_\_\_\_ (I) Claims and litigation;
- 3-3 \_\_\_\_\_ (J) Personal and family maintenance;
- 3-4 \_\_\_\_\_ (K) Benefits from social security, Medicare, Medicaid,
- 3-5 or other governmental programs or civil or military service;
- 3-6 \_\_\_\_\_ (L) Retirement plan transactions;
- 3-7 \_\_\_\_\_ (M) Tax matters;
- 3-8 \_\_\_\_\_ (N) ALL OF THE POWERS LISTED IN (A) THROUGH (M). YOU DO
- 3-9 NOT HAVE TO INITIAL THE LINE IN FRONT OF ANY OTHER POWER IF YOU
- 3-10 INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

3-11 Special instructions applicable to gifts (initial in front of

3-12 the following sentence to have it apply):  
3-13 \_\_\_\_\_ I grant my agent (attorney in fact) the power to apply my  
3-14 property to make gifts outright to or for the benefit of a person,  
3-15 including by the exercise of a presently exercisable general power  
3-16 of appointment held by me, except that the amount of a gift to an  
3-17 individual may not exceed the amount of annual exclusions allowed  
3-18 from the federal gift tax for the calendar year of the gift.

3-19 ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS  
3-20 LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

3-21 \_\_\_\_\_

3-22 \_\_\_\_\_

3-23 \_\_\_\_\_

3-24 \_\_\_\_\_

3-25 \_\_\_\_\_

3-26 \_\_\_\_\_

3-27 \_\_\_\_\_

3-28 \_\_\_\_\_

3-29 \_\_\_\_\_

3-30 \_\_\_\_\_

3-31 UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS  
3-32 EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

3-33 CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE  
3-34 ALTERNATIVE NOT CHOSEN:

3-35 (A) This power of attorney is not affected by my subsequent  
3-36 disability or incapacity.

3-37 (B) This power of attorney becomes effective upon my  
3-38 disability or incapacity.

3-39 YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY  
3-40 IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.

3-41 IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT  
3-42 YOU CHOSE ALTERNATIVE (A).

3-43 If Alternative (B) is chosen and a definition of my  
3-44 disability or incapacity is not contained in this power of  
3-45 attorney, I shall be considered disabled or incapacitated for  
3-46 purposes of this power of attorney if a physician certifies in  
3-47 writing at a date later than the date this power of attorney is  
3-48 executed that, based on the physician's medical examination of me,  
3-49 I am mentally incapable of managing my financial affairs. I  
3-50 authorize the physician who examines me for this purpose to  
3-51 disclose my physical or mental condition to another person for  
3-52 purposes of this power of attorney. A third party who accepts this  
3-53 power of attorney is fully protected from any action taken under  
3-54 this power of attorney that is based on the determination made by a  
3-55 physician of my disability or incapacity.

3-56 I agree that any third party who receives a copy of this  
3-57 document may act under it. Revocation of the durable power of  
3-58 attorney is not effective as to a third party until the third party  
3-59 receives actual notice of the revocation. I agree to indemnify the  
3-60 third party for any claims that arise against the third party  
3-61 because of reliance on this power of attorney.

3-62 If any agent named by me dies, becomes legally disabled,  
3-63 resigns, ~~or~~ refuses to act, or is removed by court order, I name  
3-64 the following (each to act alone and successively, in the order  
3-65 named) as successor(s) to that agent: \_\_\_\_\_.

3-66 Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

3-67 \_\_\_\_\_

3-68 (your signature)

3-69 State of \_\_\_\_\_

4-1 County of \_\_\_\_\_  
 4-2 This document was acknowledged before me on \_\_\_\_\_ (date) by  
 4-3 \_\_\_\_\_  
 4-4 (name of principal)  
 4-5 \_\_\_\_\_  
 4-6 (signature of notarial officer)  
 4-7 (Seal, if any, of notary)  
 4-8 \_\_\_\_\_  
 4-9 (printed name)

4-10 My commission expires: \_\_\_\_\_

4-11 IMPORTANT INFORMATION FOR AGENT (ATTORNEY IN FACT)

4-12 Agent's Duties

4-13 When you accept the authority granted under this power of  
 4-14 attorney, you establish a "fiduciary" relationship with the  
 4-15 principal. This is a special legal relationship that imposes on you  
 4-16 legal duties that continue until you resign or the power of attorney  
 4-17 is terminated, suspended, or revoked by the principal or by  
 4-18 operation of law. A fiduciary duty generally includes the duty to:

- 4-19 (1) act in good faith;
- 4-20 (2) do nothing beyond the authority granted in this  
 4-21 power of attorney;
- 4-22 (3) act loyally for the principal's benefit;
- 4-23 (4) avoid conflicts that would impair your ability to  
 4-24 act in the principal's best interest; and
- 4-25 (5) disclose your identity as an agent or attorney in  
 4-26 fact when you act for the principal by writing or printing the name  
 4-27 of the principal and signing your own name as "agent" or "attorney  
 4-28 in fact" in the following manner:

4-29 (Principal's Name) by (Your Signature) as Agent (or as  
 4-30 Attorney in Fact)

4-31 In addition, the Durable Power of Attorney Act (Subtitle P,  
 4-32 Title 2, Estates Code) requires you to:

- 4-33 (1) maintain records of each action taken or decision  
 4-34 made on behalf of the principal;
- 4-35 (2) maintain all records until delivered to the  
 4-36 principal, released by the principal, or discharged by a court; and
- 4-37 (3) if requested by the principal, provide an  
 4-38 accounting to the principal that, unless otherwise directed by the  
 4-39 principal or otherwise provided in the Special Instructions, must  
 4-40 include:

- 4-41 (A) the property belonging to the principal that  
 4-42 has come to your knowledge or into your possession;
- 4-43 (B) each action taken or decision made by you as  
 4-44 agent or attorney in fact;
- 4-45 (C) a complete account of receipts,  
 4-46 disbursements, and other actions of you as agent or attorney in fact  
 4-47 that includes the source and nature of each receipt, disbursement,  
 4-48 or action, with receipts of principal and income shown separately;
- 4-49 (D) a listing of all property over which you have  
 4-50 exercised control that includes an adequate description of each  
 4-51 asset and the asset's current value, if known to you;
- 4-52 (E) the cash balance on hand and the name and  
 4-53 location of the depository at which the cash balance is kept;
- 4-54 (F) each known liability;
- 4-55 (G) any other information and facts known to you  
 4-56 as necessary for a full and definite understanding of the exact  
 4-57 condition of the property belonging to the principal; and
- 4-58 (H) all documentation regarding the principal's  
 4-59 property.

4-60 Termination of Agent's Authority

4-61 You must stop acting on behalf of the principal if you learn  
 4-62 of any event that terminates or suspends this power of attorney or  
 4-63 your authority under this power of attorney. An event that  
 4-64 terminates this power of attorney or your authority to act under  
 4-65 this power of attorney includes:

- 4-66 (1) the principal's death;
- 4-67 (2) the principal's revocation of this power of  
 4-68 attorney or your authority;
- 4-69 (3) the occurrence of a termination event stated in

5-1 this power of attorney;

5-2 (4) if you are married to the principal, the  
5-3 dissolution of your marriage by court decree of divorce or  
5-4 annulment;

5-5 (5) the appointment and qualification of a permanent  
5-6 guardian of the principal's estate unless a court order provides  
5-7 otherwise; or

5-8 (6) if ordered by a court, your removal as agent  
5-9 (attorney in fact) under this power of attorney. An event that  
5-10 suspends this power of attorney or your authority to act under this  
5-11 power of attorney is the appointment and qualification of a  
5-12 temporary guardian unless a court order provides otherwise [~~if~~  
5-13 ~~ordered by a court, the suspension of this power of attorney on the~~  
5-14 ~~appointment and qualification of a temporary guardian until the~~  
5-15 ~~date the term of the temporary guardian expires~~].

5-16 Liability of Agent

5-17 The authority granted to you under this power of attorney is  
5-18 specified in the Durable Power of Attorney Act (Subtitle P, Title 2,  
5-19 Estates Code). If you violate the Durable Power of Attorney Act or  
5-20 act beyond the authority granted, you may be liable for any damages  
5-21 caused by the violation or subject to prosecution for  
5-22 misapplication of property by a fiduciary under Chapter 32 of the  
5-23 Texas Penal Code.

5-24 THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER  
5-25 THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL  
5-26 RESPONSIBILITIES OF AN AGENT.

5-27 SECTION 5. Subtitle P, Title 2, Estates Code, is amended by  
5-28 adding Chapter 753 to read as follows:

5-29 CHAPTER 753. REMOVAL OF ATTORNEY IN FACT OR AGENT

5-30 Sec. 753.001. PROCEDURE FOR REMOVAL. (a) In this section,  
5-31 "person interested," notwithstanding Section 22.018, has the  
5-32 meaning assigned by Section 1002.018.

5-33 (b) The following persons may file a petition under this  
5-34 section:

5-35 (1) any person named as a successor attorney in fact or  
5-36 agent in a durable power of attorney; or

5-37 (2) if the person with respect to whom a guardianship  
5-38 proceeding has been commenced is a principal who has executed a  
5-39 durable power of attorney, any person interested in the  
5-40 guardianship proceeding, including an attorney ad litem or guardian  
5-41 ad litem.

5-42 (c) On the petition of a person described by Subsection (b),  
5-43 a probate court, after a hearing, may enter an order:

5-44 (1) removing a person named and serving as an attorney  
5-45 in fact or agent under a durable power of attorney;

5-46 (2) authorizing the appointment of a successor  
5-47 attorney in fact or agent who is named in the durable power of  
5-48 attorney if the court finds that the successor attorney in fact or  
5-49 agent is willing to accept the authority granted under the power of  
5-50 attorney; and

5-51 (3) if compensation is allowed by the terms of the  
5-52 durable power of attorney, denying all or part of the removed  
5-53 attorney in fact's or agent's compensation.

5-54 (d) A court may enter an order under Subsection (c) if the  
5-55 court finds:

5-56 (1) that the attorney in fact or agent has breached the  
5-57 attorney in fact's or agent's fiduciary duties to the principal;

5-58 (2) that the attorney in fact or agent has materially  
5-59 violated or attempted to violate the terms of the durable power of  
5-60 attorney and the violation or attempted violation results in a  
5-61 material financial loss to the principal;

5-62 (3) that the attorney in fact or agent is  
5-63 incapacitated or is otherwise incapable of properly performing the  
5-64 attorney in fact's or agent's duties; or

5-65 (4) that the attorney in fact or agent has failed to  
5-66 make an accounting;

5-67 (A) that is required by Section 751.104 within  
5-68 the period prescribed by Section 751.105, by other law, or by the  
5-69 terms of the durable power of attorney; or

6-1 (B) as ordered by the court.  
 6-2 Sec. 753.002. NOTICE TO THIRD PARTIES. Not later than the  
 6-3 21st day after the date the court enters an order removing an  
 6-4 attorney in fact or agent and authorizing the appointment of a  
 6-5 successor under Section 753.001, the successor attorney in fact or  
 6-6 agent shall provide actual notice of the order to each third party  
 6-7 that the attorney in fact or agent has reason to believe relied on  
 6-8 or may rely on the durable power of attorney.

6-9 SECTION 6. Section 1055.003, Estates Code, is amended by  
 6-10 amending Subsection (a) and adding Subsection (d) to read as  
 6-11 follows:

6-12 (a) Notwithstanding the Texas Rules of Civil Procedure and  
 6-13 except as provided by Subsection (d), an interested person may  
 6-14 intervene in a guardianship proceeding only by filing a timely  
 6-15 motion to intervene that is served on the parties.

6-16 (d) A person who is entitled to receive notice under Section  
 6-17 1051.104 is not required to file a motion under this section to  
 6-18 intervene in a guardianship proceeding.

6-19 SECTION 7. Section 1101.002, Estates Code, is amended to  
 6-20 read as follows:

6-21 Sec. 1101.002. CONTENTS OF APPLICATION; CONFIDENTIALITY OF  
 6-22 CERTAIN ADDRESSES. An application filed under Section 1101.001 may  
 6-23 omit the address of a person named in the application if:

6-24 (1) the application states that the person is or was  
 6-25 protected by a protective order issued under Chapter 85, Family  
 6-26 Code;

6-27 (2) a copy of the protective order is attached to the  
 6-28 application as an exhibit;

6-29 (3) the application states the county in which the  
 6-30 person resides;

6-31 (4) the application indicates the place where notice  
 6-32 to or the issuance and service of citation on the person may be made  
 6-33 or sent; and

6-34 (5) the application is accompanied by a request for an  
 6-35 order under Section 1051.201 specifying the manner of issuance,  
 6-36 service, and return of citation or notice on the person.

6-37 SECTION 8. Section 1151.051(d), Estates Code, is amended to  
 6-38 read as follows:

6-39 (d) Notwithstanding Subsection (c)(4), a guardian of the  
 6-40 person of a ward has the power to personally transport the ward or  
 6-41 to direct the ward's transport by emergency medical services or  
 6-42 other means to an inpatient mental health facility for a  
 6-43 preliminary examination in accordance with Subchapters A and C,  
 6-44 Chapter 573, Health and Safety Code. The guardian shall  
 6-45 immediately provide written notice to the court that granted the  
 6-46 guardianship as required by Section 573.004, Health and Safety  
 6-47 Code, of the filing of an application under that section.

6-48 SECTION 9. Section 1357.052, Estates Code, is amended to  
 6-49 read as follows:

6-50 Sec. 1357.052. AUTHORITY OF SUPPORTER; NATURE OF  
 6-51 RELATIONSHIP. (a) A supporter may exercise the authority granted  
 6-52 to the supporter in the supported decision-making agreement.

6-53 (b) A supporter is in a fiduciary relationship with the  
 6-54 adult with a disability with whom the supporter enters into a  
 6-55 supported decision-making agreement. The supporter owes to the  
 6-56 adult with a disability the duties listed in the form provided by  
 6-57 Section 1357.056(a), regardless of whether that form is used for  
 6-58 the supported decision-making agreement.

6-59 (c) The relationship between an adult with a disability and  
 6-60 the supporter with whom the adult enters into a supported  
 6-61 decision-making agreement:

6-62 (1) is one of trust and confidence; and

6-63 (2) does not undermine the decision-making authority  
 6-64 of the adult.

6-65 SECTION 10. Subchapter B, Chapter 1357, Estates Code, is  
 6-66 amended by adding Section 1357.0525 to read as follows:

6-67 Sec. 1357.0525. DESIGNATION OF ALTERNATE SUPPORTER IN  
 6-68 CERTAIN CIRCUMSTANCES. In order to prevent a conflict of interest,  
 6-69 if a determination is made by an adult with a disability that the

7-1 supporter with whom the adult entered into a supported  
7-2 decision-making agreement is the most appropriate person to provide  
7-3 to the adult supports and services for which the supporter will be  
7-4 compensated, the adult may amend the supported decision-making  
7-5 agreement to designate an alternate person to act as the adult's  
7-6 supporter for the limited purpose of participating in  
7-7 person-centered planning as it relates to the provision of those  
7-8 supports and services.

7-9 SECTION 11. Section 1357.053(b), Estates Code, is amended  
7-10 to read as follows:

7-11 (b) The supported decision-making agreement is terminated  
7-12 if:

7-13 (1) the Department of Family and Protective Services  
7-14 finds that the adult with a disability has been abused, neglected,  
7-15 or exploited by the supporter; ~~[or]~~

7-16 (2) the supporter is found criminally liable for  
7-17 conduct described by Subdivision (1); or

7-18 (3) a temporary or permanent guardian of the person or  
7-19 estate appointed for the adult with a disability qualifies.

7-20 SECTION 12. Section 1357.056(a), Estates Code, is amended  
7-21 to read as follows:

7-22 (a) Subject to Subsection (b), a supported decision-making  
7-23 agreement is valid only if it is in substantially the following  
7-24 form:

SUPPORTED DECISION-MAKING AGREEMENT

Important Information For Supporter: Duties

7-27 When you agree to provide support to an adult with a  
7-28 disability under this supported decision-making agreement, you  
7-29 have a duty to:

7-30 (1) act in good faith;

7-31 (2) act within the authority granted in this  
7-32 agreement;

7-33 (3) act loyally and without self-interest; and

7-34 (4) avoid conflicts of interest.

Appointment of Supporter

7-36 I, (insert your name), make this agreement of my own free  
7-37 will.

7-38 I agree and designate that: \_\_\_\_\_

7-39 Name: \_\_\_\_\_

7-40 Address: \_\_\_\_\_

7-41 Phone Number: \_\_\_\_\_

7-42 E-mail Address: \_\_\_\_\_

7-43 is my supporter. My supporter may help me with making everyday life  
7-44 decisions relating to the following:

7-45 Y/N obtaining food, clothing, and shelter

7-46 Y/N taking care of my physical health

7-47 Y/N managing my financial affairs.

7-48 My supporter is not allowed to make decisions for me. To help  
7-49 me with my decisions, my supporter may:

7-50 1. Help me access, collect, or obtain information that is  
7-51 relevant to a decision, including medical, psychological,  
7-52 financial, educational, or treatment records;

7-53 2. Help me understand my options so I can make an informed  
7-54 decision; or

7-55 3. Help me communicate my decision to appropriate persons.

7-56 Y/N A release allowing my supporter to see protected  
7-57 health information under the Health Insurance Portability and  
7-58 Accountability Act of 1996 (Pub. L. No. 104-191) is attached.

7-59 Y/N A release allowing my supporter to see educational  
7-60 records under the Family Educational Rights and Privacy Act of 1974  
7-61 (20 U.S.C. Section 1232g) is attached.

Effective Date of Supported Decision-Making Agreement

7-63 This supported decision-making agreement is effective  
7-64 immediately and will continue until (insert date) or until the  
7-65 agreement is terminated by my supporter or me or by operation of  
7-66 law.

7-67 Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

7-68 Consent of Supporter

7-69 I, (name of supporter), consent to act as a supporter under

8-1 this agreement.  
8-2 \_\_\_\_\_  
8-3 (signature of supporter) (printed name of supporter)  
8-4 Signature  
8-5 \_\_\_\_\_  
8-6 (my signature) (my printed name)  
8-7 \_\_\_\_\_  
8-8 (witness 1 signature) (printed name of witness 1)  
8-9 \_\_\_\_\_  
8-10 (witness 2 signature) (printed name of witness 2)  
8-11 State of \_\_\_\_\_  
8-12 County of \_\_\_\_\_  
8-13 This document was acknowledged before me  
8-14 on \_\_\_\_\_ (date)  
8-15 by \_\_\_\_\_ and \_\_\_\_\_  
8-16 (name of adult with a disability) (name of supporter)  
8-17 \_\_\_\_\_  
8-18 (signature of notarial officer)  
8-19 (Seal, if any, of notary) \_\_\_\_\_  
8-20 (printed name)  
8-21 My commission expires: \_\_\_\_\_

8-22 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY  
8-23 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE  
8-24 OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT THE  
8-25 ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR EXPLOITED BY  
8-26 THE SUPPORTER, THE PERSON SHALL REPORT THE ALLEGED ABUSE, NEGLECT,  
8-27 OR EXPLOITATION TO THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES  
8-28 BY CALLING THE ABUSE HOTLINE AT 1-800-252-5400 OR ONLINE AT  
8-29 WWW.TXABUSEHOTLINE.ORG.

8-30 SECTION 13. (a) Sections 751.052, 751.054(a), and  
8-31 751.055(a), Estates Code, as amended by this Act, and Chapter 753,  
8-32 Estates Code, as added by this Act, apply to a durable power of  
8-33 attorney, including a statutory durable power of attorney, executed  
8-34 before, on, or after the effective date of this Act.

8-35 (b) Section 752.051, Estates Code, as amended by this Act,  
8-36 applies to a statutory durable power of attorney executed on or  
8-37 after the effective date of this Act. A statutory durable power of  
8-38 attorney executed before the effective date of this Act is governed  
8-39 by the law as it existed on the date the statutory durable power of  
8-40 attorney was executed, and the former law is continued in effect for  
8-41 that purpose.

8-42 (c) Section 1055.003, Estates Code, as amended by this Act,  
8-43 applies to a guardianship proceeding that is pending or commenced  
8-44 on or after the effective date of this Act.

8-45 (d) Section 1101.002, Estates Code, as amended by this Act,  
8-46 applies to an application for a guardianship filed on or after the  
8-47 effective date of this Act.

8-48 (e) Sections 1357.052 and 1357.053(b), Estates Code, as  
8-49 amended by this Act, and Section 1357.0525, Estates Code, as added  
8-50 by this Act, apply to a supported decision-making agreement entered  
8-51 into before, on, or after the effective date of this Act.

8-52 (f) Section 1357.056(a), Estates Code, as amended by this  
8-53 Act, applies to a supported decision-making agreement entered into  
8-54 on or after the effective date of this Act. A supported  
8-55 decision-making agreement entered into before the effective date of  
8-56 this Act is governed by the law as it existed on the date the  
8-57 supported decision-making agreement was entered into, and the  
8-58 former law is continued in effect for that purpose.

8-59 SECTION 14. This Act takes effect September 1, 2017.

8-60 \* \* \* \* \*