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Sectional Analysis of CS for House Bill 336(JUD) am Version R.A

Section One: Amending AS 13, which related to decedents' estates, guardianships, transfers, trusts and health care decisions, by adding a new chapter – chapter 56

13.56.010: Authorizes adults to enter into a supported decision-making agreement (SDMA) and spells out reasons why an adult may not enter a SDMA.

13.56.020: Describes the requirements adults must meet to be qualified as supporters in SDMAs.

13.56.030: Sets the parameters for what a SDMA must contain to be legitimate. Also deals with alternate supporters and sharing of information amongst supporters.

13.56.040: This section lays out the precise requirements for a SDMA to be valid, and how the principal and supporter(s) may formalize the signing of the SDMA.

13.56.050: Mandates that each supporter acknowledge their relationship with the principal and their responsibilities to support the principal.

13.56.060: Delineates who a witness to the signing of the SDMA can and cannot be.

13.56.070: Clarifies when a SDMA becomes effective and how long they last.

13.56.080: This section details how either a principal or supporter(s) of a SDMA may terminate all or portions of a SDMA. Likewise, explains what happens to a SDMA if only portions of it are terminated.

13.56.090: States the general duties of supporters.

13.56.100: Outlines the areas of a principal's life, including health, finances, education and communication, that a supporter may provide support in. Also provides a way for supporters to help the principal deal with health information covered under federal healthcare privacy laws.

13.56.110: Prohibits supporters from wrongfully guiding and influencing the principal in a harmful manner. This section also prohibits supporters from using or obtaining the principal's personal information without their consent.

13.56.120: Requires the supporter(s) of a principal to keep all information related to the principal confidential, protected and shielded from unauthorized use.

13.56.130: Directs people who interact with principals/supporter(s) to recognize the communication, requests and decisions made by the principal (with support from the supporter(s)) as if that communication, request or decision was made solely by the principal.

13.56.140: This section absolves a person (for three distinct reasons) from civil or criminal liability or discipline for unprofessional conduct if they either comply or decline to comply with an authorization in a SDMA.

13.56.150: Delineates the circumstances in which a principal is capable and has capacity. A principal doesn't lack capacity based on how they communicate. Likewise, a principal may make decisions without the support of a supporter(s). Lastly, the existence of a SDMA doesn't mean a principal lacks capacity.

13.56.160: Deals entirely with the affairs of a principal that a SDMA may cover. Work, healthcare, support services education, finances, living arrangements and more are all discussed.

13.56.170: This section spells out the multitude of support services, as referenced in 13.56.160, that supporters may provide the principal as agreed upon in the SDMA.

13.56.180: This section creates a statutory form for supported decision-making agreements as prescribed in the other sections of HB 336.

- 1) Introduction: Principal declares their desire to enter a SDMA.
- 2) Supporters: Supporters fill out their information and select what they will be helping the principal with. Provides for an alternate supporter to enter the SDMA.
- 3) Information Access Forms: Enables supporters to obtain the principal's private information.
- 4) Guardians and Conservators: Principal must declare whether they have a guardian or conservator.
- 5) Notice to Third Parties: Outlines the rights and obligations of supporters and ensures that a third party must recognize a principal's request or decision as declared under AS 13.56.130.
- 6) Duration and Termination of Agreement: Principals may end the agreement at any time by giving notice to their supporters.

- 7) Signature of Principal: Recognition of voluntary signature of the principal to enter the SDMA
- 8) Signatures of Supporters: Self explanatory
- 9) Declaration of Supporters: Supporters and possible alternate supporter sign again and acknowledge their role to help the principal with the mutually agreed upon terms.
- 10) Notarization or Witnessing: Provides area for notary or two witnesses to sign and make the SDMA official.
- 11) Approval by Guardian: Space for the guardian to approve the principal entering the SDMA.
- 12) Approval by Conservator: Space for a conservator to approve the principal entering the SDMA.

13.56.190: Definitions

13.56.195: The short title of House Bill 336 is the Supported Decision-Making Agreements Act.

Section 2: Amends Alaska Court Rule 402, Alaska Rules of Evidence, to clarify that the execution of a SDMA cannot be used as evidence of a principal's incapacity.

Section 3: Amends the uncodified law of Alaska by amending Court Rule 402 and clarifies the two-thirds majority vote of each house needed to achieve such action.