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House Bill 336 Summary of Changes

House Bill 336 as introduced underwent two substantial changes in the Committee process. In the House Health and Social Services Committee (designated below as Round 1 Changes) we revamped the bill and brought forth a new CS. In the House Judiciary Committee, we rolled out another CS (Round 2 Changes), this time leaving all sections unchanged, but inserted a model supported decision-making agreements form into the bill. Placing a model SDMA form in statute ensures that the Department of Health and Social Services is not responsible for the creation of these forms.

On the House Floor Rep. Millett offered one amendment to correct a drafting error. The amendment was adopted unanimously and is explained in Round 3 Changes.

The changes are described in greater detail below.

Round 1 Changes (House Health and Social Services Committee):

House Bill 336 (Version D) to CS for HB 336(HSS) Version O Explanation of Changes

Section 13.56.010, Page 1, Line 9: Deleted “another adult” and added “one or more adults”

Section 13.56.010(c), Page 2, Line 1-4: Changed language to clarify that an adult cannot enter into a SDMA if that agreement infringes on the authority of any guardian or conservator – but still gives principal the ability to enter a SDMA IF the guardian/conservator approves of it in writing

Section 13.56.030(a)(2), Page 2, Line 18: Changed the word “the” after “assistance that” to “each” to clarify that a SDMA may have multiple supporters

Section 13.56.030(b), Page 2, Line 20-22: Inserted this new subsection to mandate that SDMAs contain 3rd party notification of the rights and obligations of supporters in SDMAs

Section 13.56.030(c), Page 2, Line 23-27: Renumbered the section, following insertion of subsection b

Section 13.56.040, Page 2, Line 30-31: Removed subsection 3 referencing a form provided by the Department of Health and Human Services. DHSS will not be required to create SDMA

forms. Governor's Council on Disabilities and Special Education has agreed to take this on. Also, under subsection 2, line 31 added language "the agreement..."

Section 13.56.040, Page 3, line 2-6: Renumbered subsection "4", to subsection "3."

Section 13.56.040, Page 3, line 8-9: Added new subsection "4," which provides safeguards by ensuring that a principal who also has a guardian or conservator must notify them of the SDMA for the agreement to be valid

Section 13.56.060(b), Page 3, line 22-24: Added "supported decision-making" before "agreement"

Section 13.56.070, Page 3, Line 25-30: Grammar edits in this section. Keeping consistency throughout bill, by adding "supported decision-making" before "agreement"

Section 13.56.080, Subsections A-D, Page 3, Line 31- Page 4, Line 14:

Removed subsection "c" referencing the superior court's ability to terminate or limit a SDMA, as these are private agreements and decision-making right are retained by the principal. Capacity is inherently retained by principals under SDMAs. SDMAs do not grant decision making authority away. Superior Court doesn't have authority over these agreements

- a) Clarifies that either a principal or supporter may terminate all, or a portion of a SDMA – at any time
- b) Termination process of all or part of a SDMA must be in writing, signed, and such signing must be presence of two witnesses who also sign the termination paperwork, or the signature must be notarized
- c) Renumbered as subsection "c" from "b" – includes language noting that a principal or supporter can terminate all or a portion of a SDMA
- d) New subsection. If certain parts of a SDMA are terminated, the entire SDMA is not terminated, and the untouched parts remain in effect

Section 13.56.100(2), Page 4, Line 24-25: Strikes out "to manage the principal's affairs", replaced with "for the principal to manage the principal's affairs". Supporter isn't managing principal's affairs – principal is managing their own affairs with assistance by supporter in specific areas

Section 13.56.110, Page 5, Line 11: Inserted new subsection "3." Prohibits a supporter from signing or providing an electronic signature for the principal. Renumber other subsections accordingly

Section 13.56.140(3), Page 6, Line 14-15: Removed the language "conscience or" on concerns that this language might have been unconstitutional/discriminatory

Removed Section 13.56.150 "Principles for providing decision-making assistance," Page 6 of original bill (Version D), Line 11-24 – and renumbered sections accordingly. This language is

stated better in the Shared Vision bill and shouldn't have to be stated -- we are talking about people with full agency, so these are already inherent rights

Section 13.56.150, Page 6, Line 19-27: Removed subsection "a" referencing the superior court for same reasons state previously, and renumbered subsections accordingly

Removed Section 13.56.185 "Regulatory authority; forms," Page 8 of original bill (Version D), Line 9-11: Deleted this section as DHSS won't be necessary to create forms or regulate these private capacity agreements. Governor's Council on Disabilities has offered to produce SDMA forms

Section 13.56.190 (4), Page 8, Line 7-8: Added new definition of "conservator" to include a conservator in another state

Section 13.56.190(6), Page 8, Line 10-11: Added new definition of "decision-making assistance"

Section 13.56.190(7), page 8, Line 12-13: Added new definition of "guardian" to include a guardian in another state

Round 2 Changes (House Judiciary Committee):

HB 336 (Version O) to CS for HB 336(JUD) Version R Explanation of Changes

Under the new CS (Version R) the only substantive change made was to insert a statutory form for supported decision-making agreements into the bill. The form is lengthy, but meets the requirements and stipulations laid out in the rest of the bill.

Sec. 13.56.180, Page 7 on line 31 through page 18 line 7:

Adds new section stating that a supported decision-making agreement must substantially adhere to the criteria spelled out under the 12 new subsections. Creates a standard statutory form for supported decision-making agreements.

Round 3 Changes (House Floor):

Amendment #1 (R.1) to CSHB 336 (JUD)

The amendment deleted duplicative language that was accidentally added in the model SDMA form that is now in the bill. Under Supporter 1 there was extraneous language that didn't mirror the language under the other Supporters.