



Please Join the Council in Supporting HB ?

The Supported Decision Making Act

WHAT IS IT?

This bill provides equal access to decision making for adults with disabilities by authorizing written agreements between an adult and supporters which describe a process for making life decisions; including decisions related to a person's finances, where and with whom the person wants to live, the services, supports, and medical care the person wants to receive, and where the person wants to work. Supported Decision Making Agreements would be a legal alternative to full or partial guardianship. This alternative actively engages people with disabilities in creating the decision-making structures and tools that serve their lives and autonomy. This bill formalizes a support process, describes eligible supporters, creates a blueprint for valid written agreements, and provides safeguards to protect the well-being and independence of adults with disabilities.

Supported Decision Making (SDM) is a constitutional and civil rights idea which recognizes that full guardianship is often not the least-restrictive alternative for adults who experience intellectual or developmental disabilities, communication impairment, or dementia. All people use support for making the important decisions of life; needing more, different, or structured help with getting information, setting goals, weighing options, exploring outcomes does not justify unequal treatment and removal of all rights to make a decision.

WHY IS IT NEEDED?

Alaska has one of the highest rates of full guardianship in the nation. The Office of Public Advocacy (OPA) reports that public guardians are currently each responsible for over 100 wards. The recommended national maximum is a ratio of 1:40. Guardians in Alaska have control over \$100 million of assets of wards, with private guardianships having little or no practical oversight. Guardianship orders in Alaska have doubled in the last seven years, and will likely increase as our senior population grows.

Many good guardians encourage their wards to engage in making decisions about their lives and act on the preferences and choices made by their wards. However, research shows that adults under guardianship orders are less likely to have supported employment, and less likely to be integrated into the community than adults with less-restrictive alternatives to guardianship. Guardianship can lead to a cycle of learned helplessness, where the lack of authority to make decisions leads to increased withdrawal from planning or taking responsibility for adult decisions. Individuals with disabilities who are wards in Alaska report on the loss of independence, self-expression, and dignity that comes from being able to make choices about their lives. It is also important to note that Alaska has recently had an increase of the number of cases of financial exploitation by abusive guardians, problems that stem from the isolation of wards, the number of unexamined guardianship reports, and lack of required monitoring

by the courts.

HOW WILL IT WORK?

Supported decision-making empowers people with disabilities to use available support to make their own choices so they can live more independent and self-directed lives. So, how does this work? People with disabilities who want to use supported decision-making will:

1. Choose people they trust to help them make decisions.
2. Ask these individuals to be their supporters.
3. Think about the type of decisions they need help making.
4. Complete a written plan called a supported decision-making agreement
5. Provide the agreement to people like doctors and service providers

Then, when people with disabilities need to make a decision and want some extra support, they can call upon their supporters to help them through the process. Supported decision-making agreements are an excellent self-advocacy tool that people with disabilities can use to advocate for the right to make their own decisions, and to have the support they need to make those decisions. This process can be used to help plan for future decision making and avoid the need for a restrictive guardianship.

COMMUNITY SUPPORT FOR SDM AGREEMENTS:

With the Council's work and vision, Alaska has joined fourteen other states and the District of Columbia in implementing SDM at varying levels. The momentum toward legal recognition of written Supported Decision Making Agreements has been championed by the American Bar Association. Texas and Delaware have enacted Supported Decision Making statutes, and the New York Supreme Court has required SDM Agreements to be legally recognized by lower courts. The U.S. Administration on Community Living supports nation-wide adoption of Supported Decision Making Agreements through state WINGS grants. The Council supported the successful WINGS grant application for Alaska, and is a lead stakeholder in that collaboration along with the court system, the Long-Term Care Ombudsman, and the Office of Public Advocacy. Within the Council, there is also a work group that is facilitating a pilot project to develop and implement written SDM Agreements for several adults to replace or prevent full guardianship orders. The Council has presented on SDM Agreements to a wide variety of audiences and stakeholders this fall, and is creating more training for professional groups and agencies that are involved in adult guardianship or decision making for others. The Council will continue to work with the legislature, the court system, self-advocates community partners, and state agencies to create processes, forms, professional standards, and institutional support for legally recognized SDM Agreements.

RESOURCES:

- National Resource Center for Supported Decision Making
<http://supporteddecisionmaking.org>
- American Bar Association Resolution on SDM
https://www.americanbar.org/content/dam/aba/administrative/law_aging/2017_SDM_Resolution_Final.authcheckdam.pdf
- Videos of individuals and their families implementing SDM Agreements:
<http://youtu.be/wfsMAM781Xk>
<https://www.youtube.com/watch?v=wfsMAM781Xk>
<https://www.youtube.com/watch?v=DwnJ1nRR0Hs>

Talking Points:

Supported Decision Making Act

ASK

Please join the Council in supporting the Supported Decision Making Act.

GOALS

1. Adults with disabilities have support from people for making life decisions. Supporters agree, in writing, to take direction from these adults on getting information, talking about outcomes, telling other people about a person's choices, and doing other things that the adults want for support when they are making life decisions.
2. Adults with Supported Decision Making (SDM) Agreements do not have their rights to make decisions taken away from them by guardianship orders. They have the information and support that they need about their choices to exercise the same rights that others have to choose where to live, where to work, what services they get, how to spend their money, and who they spend time with.

WHAT

1. Supported Decision Making Agreements are planned and written by a set process, with supporters that are chosen by the person who wants support.
2. Valid agreements will have specific ways that supporters will help with decisions and will have safeguards to protect the well-being and independence of adults with disabilities.
3. There will be a basic template form for the SDM Agreements, but each Agreement will be individualized to express the directions of the person who wants support, and the ways they want to be supported to make decisions.

GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

4. This Bill does not:

- A. Interfere or change the established law regarding legal capacity to make decisions or the court processes on petitions for guardianship or conservatorship. It is just another option for people to use.
- B. Alter or change a person's responsibility for their own actions
- C. Cost much; additional funding to implement these changes is estimated to be minimal

WHY IS IT NEEDED?

- 1. People who can make life decisions with support from others around them should not have the rights to make those decisions taken away from them by the government.
- 2. Alaska has one of the highest rates of full guardianship in the country. The number of guardianships in the state has doubled in the last 7 years. The courts can't keep up with monitoring all the guardianships to make sure rules and guidance are followed. The Office of Public Advocacy (public guardians) is overwhelmed and has too many wards to supervise. Many of the guardianships would be unnecessary if there was an option for a formalized SDM Agreement.
- 3. Research shows that people who make more decisions about their lives through alternatives to full guardianship are more involved in the community, more likely to have supported employment, and more likely to report satisfaction with their lives.

SHARE

A personal story or someone else's story about why this bill is necessary.

ASK

Please support the Supported Decision Making Act.