

Supported Decision-Making

AN ACT RELATIVE TO SUPPORTED DECISION-MAKING AGREEMENTS FOR CERTAIN ADULTS
H.261 / S.155, filed by Rep. Livingstone, Rep. Finn, and Sen. Lovely

Supported decision-making (SDM) helps adults, including those with disabilities and older adults, to maintain their rights, dignity, and independence by choosing one or more trusted supporters to aid them in making decisions about their lives. SDM has gained substantial momentum in the U.S., globally, and, since 2014, through innovative projects in MA. The bill is supported by the Massachusetts Supported Decision-Making Coalition (MASDM), which is comprised of over 20 organizations, individuals, and family members. Many respected national organizations and federal agencies have endorsed SDM as an option, including the American Bar Association, National Guardianship Association, The Arc of the United States, and the National Council on Disability.

Context

- SDM enables individuals to make decisions with support, instead of having someone else make decisions for them. This option is an alternative to guardianship, where someone else makes decisions for the individual.
- The SDM arrangement is memorialized in a simple written agreement setting out clear roles for the decision-maker and the supporters.
- Too many people are unnecessarily placed under guardianships when they would be able to make their own decisions and retain their legal rights if they received individualized assistance from people they trust.
- At least 20 states and D.C. have laws that provide legal authority for SDM agreements.

The Bill

- Allows people with disabilities and older adults (“decision-makers”) to create a SDM agreement with people they trust (“supporters”). The bill establishes a legal framework including:
 - Defining SDM and clearly establishing roles for all involved
 - Establishing required elements of SDM agreement form
 - Creating protections against abuse of the SDM model
 - Requiring courts to consider SDM as an option before establishing guardianship
- Establishes training for those using SDM, and ensures that all youth approaching the age of 18 are made aware of the SDM option at their Individualized Educational Program (IEP) meetings.

The Impact

SDM is an alternative to guardianship—it would not replace guardianship for those who need that level of support. But for many individuals with disabilities and seniors, guardianship is too restrictive. They deserve the right to make their own decisions about their healthcare, finances, and more, with the help of a trusted circle of supporters. Passing this bill would also save time and money in probate courts by reducing the number of guardianship petitions for people who do not need them.

Contact

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Cory lives in the Berkshires, where he has worked in a variety of jobs. Cory is on the Autism Spectrum and at times experiences symptoms including OCD and anxiety. When Cory was approaching 18, guardianship was the only option presented by his school. Cory did need help making decisions about his finances, health, and other issues, but his parents were unable to find any alternative to guardianship.

In January 2015, Cory and his family learned about the Supported Decision-Making Project run by the Center for Public Representation and Nonotuck Resource Associates and decided to try out this model of support. Cory identified his supporters and which areas of his life he would need help with decisions. He filled out a SDM agreement reflecting his choices.

On November 17, 2015, a Probate Court judge granted Cory's petition to terminate his guardianship in favor of his SDM agreement. This was the first time that a MA resident had a guardianship terminated in favor of an SDM agreement.

In Cory's own words:

- "[Ending the guardianship was] very special because I felt my own freedom for the first time."
- "SDM is really important to me. I love my family and they will always be there to support me."

Amanda is a young woman who is an avid traveler from the Berkshires, and who loves the New England Patriots and WWE. Amanda has Down syndrome and at times needs support and clarity in understanding issues before making decisions. Amanda decided to try SDM. Her mother and a long-time friend are among the supporters she chose. One of her supporters, Sandy, believes that SDM is a great option for Amanda who "directs the course of her life and knows when she needs clarity in understanding decisions. [Supported decision-making] has given Amanda the continued opportunity to stay as independent as possible; this is what Amanda and her team both want."



Amanda says: "[SDM] is great for me because I get to make my own decisions with help from my team."

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