

Guardianship and Alternative Options

This resource is informational only. It is not intended to replace legal advice.



Benefits of Supported Decision Making

Supported Decision Making should promote Dignity of Risk:

- A person's right to make their own decisions
- A person's right to take reasonable risks
- A person's right to learn from their mistakes

Supported Decision Making should increase Self-Determination:

- Believing you can control your own life
- Knowing you are in charge of supports or services you receive
- Learning what you want and how to make that happen
- Choosing your own goals
- Making things happen in your own life, instead of having other people do things for you
- Learning how to be an advocate for yourself
- Asking for help when you need it

What is Guardianship?

-A court process, which results in an individual or organization being assigned who has legal authority to make personal decisions for a person who is unable to provide for their own basic needs.

-Establishing a guardianship may take away rights from an individual, so it should only be considered after alternatives to guardianship are not available or have been tried and were not successful.

What is Conservatorship?

-If a person has assets or larger sums of money, a conservator can be assigned to make financial decisions to manage those assets.

What is Supported Decision Making (SDM)?

-An alternative to guardianship where people with disabilities use trusted friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions without the 'need' for a guardian.

-SDM is a change in mindset about how we think and support the lives of people with disabilities. It allows a person to keep self-determination and make their own informed decisions, with support from others, rather than having others make choices FOR them.

-If a person chooses SDM an individualized written agreement is created with the person and their identified support people. The agreement states how the person wants help making decisions and is signed and kept by all people involved. It is not a legal document.

Alternatives to Guardianship

Healthcare Directive: A written document that informs others of your wishes about your health care if you are unable to make these decisions. It allows you to name a person who can make decisions for you if you are unable to. Creating this document allows for a conversation about your healthcare wishes.

Consent/Release of Information forms: Forms that allow family members to communicate with healthcare professionals on behalf of a person. This allows family members/a friend to be an important part of the person's healthcare decision making. Attending appointments with the person is another way to be involved in medical care.

Joint Bank Account: A shared bank account that would allow another trusted person to help manage your money.

Representative (Rep) Payee: A person who can manage money received from Social Security, along with assist with paperwork to maintain Social Security benefits.

Supplemental/Special Needs Trust: A financial tool that allows a person to have a large amount of money, managed by another person, without affecting Social Security or Medical Assistance benefits. There are limitations on how the money in a trust can be spent.

ABLE Account: A financial tool that allows people to save money without it affecting Social Security or Medical Assistance benefits.

Power of Attorney: A document that assigns a specific person to help with specific financial decisions. There are 2 types: General (can make decisions in all financial matters), and Limited (can make decisions only in specific areas).

Power Specific/Limited Guardianship: When guardianship is applied for, the person can indicate which areas they want another person's help making decisions and which areas they don't. The Court makes the final decision about powers granted.

Case Management Services: A case manager can assist a person with a disability with understanding risks involved in certain decisions and can provide guidance in many areas of life.

Person Centered Planning: Tools to help a person identify what is important in their life and what their goals are.

Individualized Education Plans: A team of people who help the student make future academic plans and ensure their needs are being met at school.

Assistive Technology: Equipment or devices used to help people be more independent and live in their own home safely.

Vocational Rehabilitation Services: A team of people who help assess work skills and make decisions related to future employment.

Taking Classes to Learn about Healthy Choices: See "Resources."

Resources

Center for Excellence in Supported Decision Making

> Information and advice to find alternatives to guardianship, when possible.

> 952-945-4174 or

CESDM@voamn.org

><https://www.voamnwi.org/cesdm>

WINGS

>Support for guardians to better understand their responsibilities and to improve the team decision making process.

>952-945-4172

>www.wingsmn.org/

Access North

>Self-advocacy services, support groups, information, and referrals.

>218-625-1400

>www.accessnorth.net

Arc Northland

>Self-advocacy services, information, and referral to outside agencies.

>218-726-4725

>www.arcnorthland.org

Arc MN

>Information about guardianship and alternatives.

>952-920-0855 or 833-450-1494

>www.arcminnesota.org

MN Elder Justice Center

>Information and resources for older and vulnerable adults.

>651-440-9300

>www.elderjusticemn.org/

MN Judicial Branch

>Legal Information and court forms

><https://mncourts.gov/Help-Topics/Guardianship-and-Conservatorship.aspx>

>218-726-2460 (Duluth Courthouse)