

**MARYLAND JUDICIAL CONFERENCE**  
**OFFICE OF GOVERNMENT RELATIONS**

Hon. Joseph M. Getty  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 559  
Estates and Trusts – Supported Decision Making  
**DATE:** February 9, 2022  
(2/17)  
**POSITION:** Support

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The Maryland Judiciary supports Senate Bill 559. This bill authorizes the use of supported decision making to assist an adult through the provision of support for the adult in making, communicating, or effectuating decisions and preventing the need for the appointment of certain substitute decision makers for the adult.

The Judiciary supports this bill because it affirms supported decision-making (SDM) as both a communication accommodation and as a less restrictive alternative to guardianship. Additionally, it is a basis for modifying or terminating a guardianship. The bill recognizes that an adult must have the capacity to enter a SDM arrangement and clarifies that a “supporter” is not a substitute decision-maker and is not authorized to act on behalf of that adult. The bill further specifies a supporter’s duties and limits on their role and gives appropriate deference a court-appointed guardian. The legislation also sets parameters that will help courts assess whether an SDM arrangement is consistent with the welfare and safety of a person for whom a petition for guardianship is filed, or as an option for an adult under guardianship who seeks to terminate or modify the terms of their guardianship. Md. Code, Estates & Trusts Art. §13-705, Md. Rule 10-112, *Meek v. Linton*, 245 Md.App. 689 (2020), *Kircherer v. Kircherer*, 285 Md. 114 (1979).

The Judiciary’s Domestic Law Committee’s Guardianship & Vulnerable Adults Workgroup recognizes SDM as an accommodation for people with disabilities who have capacity but who need support in making or communicating their decisions. SDM also avoids the need for a person to be placed under an unnecessary or overly broad guardianship, which is important for the courts. Information on SDM is included in training programs for judges, court staff, and court-appointed guardianship attorneys who are supported by workgroup members and consultants. SDM will also be addressed as part of a video series on alternatives to guardianship that will be posted on the Judiciary website in the near future.

The Judiciary would like to point out, however, that in section 18-106(b)(2), the bill provides an individual against whom the adult has obtained a peace order may be disqualified from acting as a supporter. This may want to be clarified to also include peace or protective order.

cc. Hon. Jeff Waldstreicher  
Judicial Council  
Legislative Committee  
Kelley O'Connor