



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

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The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East  
Miller State Office Building  
Annapolis, MD 21401

**Re: Support for Senate Bill 559: Estates and Trusts – Supported Decision Making**

Dear Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of SB 559. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents, including abused and neglected children, nursing home residents, and veterans. Maryland Legal Aid frequently represents and advocates for older adults and people with disabilities in matters pertaining to accessing long-term care, Medicaid services in the community, and their rights concerning nursing homes and assisted living facilities.

SB 559 creates the process to establish Supported Decision-Making agreements (SDM) in Maryland. If enacted, it will provide assistance and support to adults with disabilities while they make, communicate and effectuate decisions. It can prevent the need for a substitute decision-maker, such as a guardian, and give self-determination to adults with disabilities. Alle Andresen, Esq. will be testifying in support of SB 559 at the request of Senator Waldstreicher.

Persons with disabilities and older adults must retain self-determination. Individual decision-making is a human right.<sup>1</sup> Every adult has the right to make life choices and to have those choices respected.<sup>2</sup> The right to personal decision-making applies to older adults with declining cognition and persons with disabilities.<sup>3</sup> Adults make choices about where they live, what they eat, what they do, and how they spend money. SDM provides a statutory tool for disabled people to retain their right to make personal decisions.

<sup>1</sup> Convention on the Rights of Persons with Disabilities (CRPD):

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/guiding-principles-of-the-convention.html>

<sup>2</sup><https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#preamble>

<sup>3</sup> Id.

It is a less restrictive alternative than guardianship, which completely strips a person of their decision-making rights.

MLA regularly represents persons who are disabled and those with diminished capacity. For the past several years, MLA has been an active member of the Cross-Disability Supported Decision Making Coalition, comprised of more than 27 partner organizations, including non-profit advocates and Maryland government agencies. One purpose of the Coalition is to promote the self-determination of older adults and people with intellectual and developmental disabilities.

For example, MLA was recently contacted by a county Department of Aging nursing home and assisted living Ombudsman regarding an assisted living resident with a court-appointed Guardian. The Ombudsman wanted to know how they could help the resident if she had a guardian who would not talk to her ward because she no longer had the right to decide where she lived. The Guardian moved the resident from one assisted living home to another every few months. The Guardian would not communicate about decisions, did not explain options, or ask for the resident's preference about her residency. No court-appointed attorney was available. With the assistance of the Ombudsman, the resident was referred to the Guardianship Attorney for the Circuit Court to have her case reviewed by a Magistrate. This entire proceeding may have been avoided if the supported decision-making process had been considered or included in the guardianship process.

Maryland Legal Aid supports SB 599 for several reasons. The Bill would codify the concept that adults have the right to make life choices. It will formalize SDM agreements to ensure acceptance and provide clear guidelines and protections in creating these agreements.

Thank you for considering this written testimony. For the reasons stated above, **MLA urges a favorable report on SB 559.**

Sincerely,

\_\_\_\_\_/s/Alle Andresen  
Alle Andresen  
Long Term Assistance Project Attorney

\_\_\_\_\_/s/Mary Aquino  
Mary Aquino  
Senior Attorney for Elder Law