



Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Judicial Proceedings Committee

February 17, 2022

SB 559: Estates and Trusts – Supported Decision Making

Position: Support

The Maryland Developmental Disabilities Council (DD Council) is a statewide public policy organization that creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. The DD Council is led by people with developmental disabilities and their families. From that perspective, the DD Council strongly supports SB 559.

In fact, the DD Council's support of supported decision making (SDM) began years ago when we provided a grant to help create the Cross-Disability SDM Coalition – a group of over 27 partners, including representation from various state agencies, the Judiciary, advocacy groups, self-advocates and family members, and others across the disability and aging communities. Our funding provided technical assistance to the Coalition from the National Resource Center for SDM to draft an action plan.

WHY is this legislation important to people with disabilities and their families?

- **Supported decision making is a critical civil rights issue for people with disabilities—it is about the right to have rights and use them to direct your own life.** Too often people with disabilities have been placed in overbroad and unnecessary guardianships based on stereotypes about their capabilities. **Guardianship is incredibly restrictive—it takes away a person's basic rights to direct their life.** A person can lose their right to vote, their ability to marry or partner with the person they love, their ability to control what medical care they receive or who can visit them, and other decisions.
- **Supported decision-making is a nationally and internationally recognized best practice that helps preserve a person's right to make their own decision.** It recognizes that just like people without disabilities, people with disabilities rely on "supporters" - the people who they trust to help them make, communicate, and effectuate their decisions.
- **This law would help formalize supported decision-making agreements, to ensure that people accept it and that there are clear guidelines and protections in making these agreements.** Passing supported decision-making in Maryland would not be a ground-breaking act. In 2015, the legislature passed a narrow bill recognizing supported decision-making in the context of organ transplants. **As of today, 20 jurisdictions in the US have passed laws formally recognizing SDM and over 40 states have introduced legislation.**

WHAT does this legislation do?

This bill ensures people with disabilities have access to the same fundamental rights and decisions that we all do. It does this by:

- Creating a framework for how to make a supported decision making agreement so that third parties are more likely to recognize them.

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- Providing an alternative that courts must consider before placing someone under guardianship, and allowing courts to terminate or limit guardianship due to the existence of a supported decision making agreement.
- Ensuring that the manner in which a person communicates is not grounds for determining that a person is incapable of making a supported decision making agreement.
- Making it clear that a supporter does not have the authority to make a decision for a person, rather the person remains the decision maker.
- Limiting liability for those who in good faith rely on the use of supported decision making agreement.

Supported decision making and allows a person to continue to make their own decisions—just recognizing that they use support to do so. It preserves a person’s right to make their own choices—fundamentally it is their right to have rights.

For these reasons, the Maryland Developmental Disabilities Council supports SB 559.

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