

# Supported Decision-Making: Promoting Individual Rights as an Alternative to Guardianship

## What is Guardianship?

Guardianship proceedings are the process in Probate Court that appoints a guardian to make decisions for a person who does not have the capacity to do so.

Guardianships may cover medical decisions, decisions about living arrangements, and other major and minor life decisions.

## How can guardianship negatively impact constituents with disabilities in South Carolina?

- ▶ The rate of guardianship has tripled in the US since 1995.
- ▶ 25% of South Carolinians have a disability, and many individuals with disabilities in our state have had their decision-making rights taken away through guardianship proceedings.
- ▶ Just because an individual has a disability does not necessarily mean that he or she is an incapacitated person.
- ▶ Individuals under guardianship are more likely to experience abuse, neglect, and financial exploitation.

*A guardianship based solely on one's disability may not fully consider the individual's capacity to learn new skills and utilize natural supports to make choices. It can be a permanent "solution" to address potentially temporary concerns about one's capacity in responsible decision-making.*

## Supported Decision-Making: A Feasible Alternative to Guardianship

- Supported decision-making incorporates a support network closely trusted and selected by the individual to assist them in understanding and communicating decisions.
- In 2017, the American Bar Association's House of Delegates adopted a resolution urging states to amend their guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative, before guardianship is imposed.

## How Supported Decision-Making Benefits Your Constituents

- The process is less expensive for South Carolina families, as guardianship proceedings can cost a family \$1,500- \$5,000 minimum.
- Individuals with disabilities in South Carolina get to maintain their independence and remain autonomous when it comes to personal liberties — the right to vote, the decision to marry, the decision to seek employment, and more.

## The Takeaway:

South Carolina would benefit from formally recognizing alternatives, like supported decision-making, so those who need support can access it without giving up their rights to control their own life.

## Real Individual. Real Story of Impact.

"Karl has an intellectual disability, and occasionally he needs me to explain things to him in a way that he can really get it. When I get input from friends on buying a car, people say, 'Oh, he has a lot of wisdom because he's willing to get support from others.' Yet when a person with intellectual disabilities needs supports, we say, 'They're incapacitated.' And I don't see what the difference is. Supported decision-making is how we surround ourselves with a group of people who will help us with the decision-making process. And for Karl, I'd like it to be a clearly documented and recognized structure that doesn't take away his civil rights."

- W.C., Parent

