

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

