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Supported Decision-Making

Supported Decision-Making recognizes adults with disabilities and older adults as their own decision-maker. In a Supported Decision-Making agreement, the adult with a disability or older adult chooses who they want to be their Supporter to assist them in certain areas such as educational, medical, and/or housing. The adult with a disability or older adult remains in control of their own decision-making.

Role of Supporter

Supported Decision-Making upholds the values of autonomy, self-direction, empowerment and dignity of risk by supporting and accommodating an adult with a disability or older adult to make their own decisions. The adult with a disability or older adult chooses who they want to be their supporter and in what areas they would like to be supported.

In the process of assisting the adult in decision-making, a Supporter can:

- Help the adult understand options and alternatives
- Help access and obtain information relevant to a decision
- Help communicate the adult's decision
- Help read and explain complex documents
- Attend appointments and meetings to help express concerns and ask questions

A Supporter does **not** make decisions on behalf of the adult with disability or older adult.

Alternative to Guardianship

Wisconsin law requires lesser restrictive alternatives to be considered before pursuing an adult guardianship. Wisconsin Statute § 54.10(3)(a)4. explains a court may appoint a guardian only if it finds by clear and convincing evidence that the individual's needs for assistance in decision making or communication is unable to be met effectively and less restrictively through other means such as training, education, support services, health care, assisted devices, a supported decision-making agreement or other means the individual will accept.

Supported Decision-Making does not take away any authority from the adult with a disability or older adult to make their own decisions or give any authority to the supporter to make decisions on behalf of the adult. In contrast, through a guardianship action, a court removes decision-making authority from the adult and assigns a guardian to make their decisions.

Guardianship Support Center

To complete a Supported Decision-Making Agreement, it must be in writing and it must be voluntary. The document must be signed, dated and witnessed by two adult witnesses or a notary. The agreement can be revoked at any time.

Guardianship is often seen as a means to protect an adult with a disability or older adult who is considered vulnerable. One of the hurdles for implementing Supported Decision-Making is to overcome the longstanding idea that adults with a disability and older adults need protection. Supported Decision-Making recognizes that everyone uses support to make decisions at different times and to varying degrees. It leaves room for adults with a disability and older adults to take risks, make mistakes, and learn new decision-making skills.

Supported Decision-Making was signed into law in Wisconsin in April 2018 and can be found in Chapter 52 of the Wisconsin Statutes. The state form for Supported Decision-Making is available through the Department of Health Services website at <https://www.dhs.wisconsin.gov/library/f-02377.htm>. An agreement that is substantially similar is also valid.

Where to go for more information on Supported Decision-Making:

Webinar on Supported Decision-Making:

<https://arcwi.org/2018/04/13/supported-decision-making/>

Wisconsin Board for People with Developmental Disabilities:

<https://wi-bpdd.org/index.php/supporteddecision-making/>

American Bar Association:

https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/

The National Resource Center for Supported Decision-Making has resources, publications, and a state-by-state guide to information on Supported Decision-Making.

www.supporteddecisionmaking.org.

Where to go for more information on other alternatives to guardianship:

Wisconsin Guardianship Support Center has information on alternatives to guardianship including supported decision-making, powers of attorney, and other options.

<https://gwaar.org/guardianship-resources>

QUESTIONS? Call the Wisconsin Guardianship Support Center at 1-855-409-9410 or email guardian@gwaar.org.

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