



Supported Decision-Making

Administrative Office of the Courts
Guardianship Compliance Office

A GUIDE FOR JUDGES
AND COURT STAFF

Supported Decision-Making

Supported decision-making (SDM) is an alternative to guardianship that is less restrictive. SDM allows adults with a disability to retain their decision-making capacity by choosing supporters to help them make choices. A person using SDM selects trusted advisors, such as friends, family, and professionals, to serve as supporters. The supporters agree to help the person with a disability understand, consider, and communicate decisions, giving the person with a disability the tools to make her own, informed, decisions.

Authority

NRS 162A was amended through the Supported Decision-Making Act (AB480) during the 80th Legislative Session. This act authorizes an adult with disability to enter into a supported decision-making agreement in which he or she designates one or more supporters to provide assistance when making decisions. This bench card will provide you with information on the Supported Decision Making Act and how courts can utilize this act to provide less restrictive alternatives to guardianship for adults with disability.

Purpose of the Supported Decision-Making Act

- Provide person-centered and directed assistance to an adult with a disability to gather and assess information, make informed decisions and communicate decisions.
- Give supporters legal status to be with such an adult and participate in discussions with others when the adult is making decisions or attempting to gain information.
- Enable supporters to assist in making and communicating decisions for such an adult, but not substitute as the decision-maker for the adult.

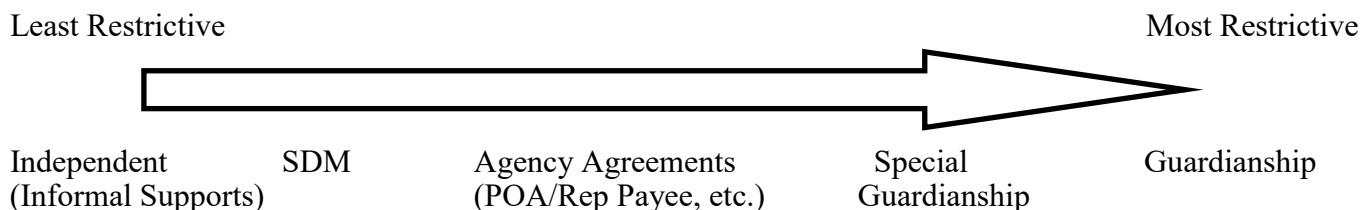
Principles of the Supported Decision-Making Act

- An adult should be able to live in the manner in which he or she wishes and to accept or refuse support, assistance or protection as long as the adult does not harm others and is capable of making decisions about such matters.
- An adult should be able to be informed about and, to the best of his or her ability, participate in the management of his or her affairs.
- An adult should receive the most effective, yet least restrictive and intrusive, form of support, assistance or protections when the adult is unable to manage his or her affairs alone.
- The values, beliefs, wishes, cultural norms and traditions that an adult holds should be respected in managing his or her affairs.

Requirements for a Supported Decision-Making Agreement

1. Per NRS 162A, an adult can enter into a supported decision-making agreement at anytime as long as:
 - It is voluntary and without coercion or undue influence;
 - The adult understands the nature and effect of the agreement.
2. The supported decision-making agreement must:
 - Be in writing;
 - Be dated;
 - Designate one or more supporters;
 - List the types of decisions with which the supporter is authorized to assist the adult with disability;
 - List the types of decision, if any, with which the supporter is not authorized to assist the adult with disability;
 - Be signed by each party to the agreement in the presence of at least two adult witnesses.
3. The adult with disability or their supporter can terminate a supported decision-making agreement at anytime, either verbally or in writing, and with notice to other parties to the agreement.

Continuum of Decision Making Supports



When a person presents with diminished capacity, guardianship is not the only option. There are many ways to support a person in decision making that maintains the person’s independence and self determination. These options can be used in combination with one another, or independently, depending on the needs of the person. When assessing capacity during a guardianship proceeding, the American Bar Association Commission on Law and Aging and the American Psychological Association has developed six factors and five steps for judges to consider in their guide Judicial Determination of Capacity of Older Adults in Guardianship Proceedings, available at www.americanbar.org.

Medical Condition	Cognition	Everyday Functioning	Values and Preferences	Risk and Level of Supervision	Means to Enhance Capacity
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Six Pillars of Capacity Assessment

1. Screen Case	2. Gather Information	3. Conduct Hearing	4. Make Determination	5. Ensure Oversight
<ol style="list-style-type: none"> 1. What is bringing this case? 2. Is guardianship potentially appropriate? Will guardianship solve the issue? If not use less restrictive alternatives. 3. Are the triggering concerns for the protection of the person, or a third party (family, heir, hospital or nursing home)? 	<ol style="list-style-type: none"> 1. Receive Reports 2. Ascertain if more information is necessary 3. Obtain additional reports if information is not available on all six pillars of capacity assessment, or has other shortcomings. 	<ol style="list-style-type: none"> 1. Take judicial note of reports 2. Receive testimony 3. Accommodate, observe and engage the individual 	<ol style="list-style-type: none"> 1. Analyze evidence in relation to the elements of state law 2. Categorize judgement <ul style="list-style-type: none"> • If minimal or no diminished capacity use less restrictive alternatives • If severely diminished capacities, on all fronts, use general guardianship • If mixed strengths and weaknesses, use special (limited) guardianship 	<ol style="list-style-type: none"> 1. Monitor changes in capacity and guardian actions. <ul style="list-style-type: none"> • If condition may improve, use time limited guardianship 2. Instruct guardian