



SUPPORTED DECISION- MAKING, AN ALTERNATIVE TO CONSERVATORSHIP

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WHAT IS SUPPORTED DECISION-MAKING?

- Supported decision-making (SDM) helps people with disabilities make their own decisions about their lives with the help of people they trust.
- People with disabilities retain their legal rights.
- Less restrictive alternative to conservatorship.
- Describes how many people already make decisions.



WHY IS SUPPORTED DECISION MAKING IMPORTANT?

- Consistent with the law
 - Presumption of capacity (Probate Code § 810)
 - California law requires consideration of alternatives (Probate Code § 1821(a)(3))
 - Federal Home and Community Based Services (HCBS) Regulations
- Helps build a circle of support
- Empowers people with disabilities



SUPPORTED DECISION-MAKING AND TRANSITION-AGED YOUTH

- Adulthood comes with new rights and responsibilities.
- SDM complements transition planning.
- Opportunity to learn from your mistakes.



WHAT ARE CONSERVATORSHIPS?

- Court process where a judge decides whether or not you are able to care for your needs.
- The court decides whether to take away your right to make decisions about your health, food, clothing, shelter, finances and personal needs. The court may appoint a conservator to hold your rights.
- Types of conservatorship:
 - General Conservatorship
 - Lanterman Petris Short Act
 - Dementia Conservatorship
 - Limited Conservatorship

POWERS OF A LIMITED CONSERVATORSHIP

1. Determine residence.
2. Access to confidential records.
3. Control right to marry.
4. Control the right to contract.
5. Consent for medical treatment.
6. Control social and sexual contacts.
7. Make educational decisions.

ALTERNATIVES: ADVOCATING FOR REGIONAL CENTER SERVICES

Consumer's right to invite people to IPP meeting (Welf. & Inst. Code § 4512(j)).

Family input regarding regional center services (Welf. & Inst. Code §§ 4501, 4646(b)).

Advocacy assistance as IPP service (Welf. & Inst. Code § 4512(b)).



ALTERNATIVES: CHOOSING WHERE TO LIVE

- Using IPP process

- Regional Center Services

- SLS
- ILS
- IPP Process
- Circle of support
- Rent assistance



ALTERNATIVES: ACCESS TO CONFIDENTIAL RECORDS

- Durable Power of Attorney (Probate Code § 4400 *et seq.*)
- Consent and release forms
- Assignment of educational decision-making authority (Cal. Education Code § 56041.5)



ALTERNATIVES: MARRIAGE AND SOCIAL/SEXUAL RELATIONSHIPS

- Advice from a trusted supporter
- Sexuality training, parenting skills training and family counseling services (Welf. & Inst. Code § 4687)
- Supported Living Services (SLS)
- Advocacy assistance to deal with agencies, such as child protective services, and help reunifying families



ALTERNATIVES: CONTRACTING AND FINANCES

- Assistance from trusted family and friends
- Special needs trust, living trust
- Power of attorney (Probate Code § 4400 *et seq.*)
- SSI Representative Payee (20 C.F.R. § 416.601 *et seq.*)
- Protective regulations regarding SSI/SSDI benefits (42 U.S.C. §§ 407, 1383(d))
- Contract Recision (Civil Code §§ 38, 39, 1688, 1689)



ALTERNATIVES: CONSENT FOR MEDICAL TREATMENT

- Power of Attorney (Probate Code § 4400 *et seq.*)
- Advance Directive (Probate Code § 4701)
- Surrogate (Probate Code § 4711)
- Regional Center Authority (Welf. & Inst. Code § 4655)
- Emergency Treatment (Bus. & Prof. Code § 2397)
- Court authorization (Probate Code §§ 1950, 3200)



HOW DOES SUPPORTED DECISION-MAKING WORK?

- It depends on the person and their preferences.
- Can use a form or “agreement,” but you do not need to.
- Can start with questions about what you want.



QUESTIONS TO CONSIDER



- Where do you want support?
 - Housing
 - Education
 - Employment
 - Medical decisions
 - Healthy relationships
- What kind of support do you want?
 - Weighing pros and cons
 - Identifying options
 - Ensuring information makes sense
 - Communicating choices to others
 - Working out logistics
- Who are your supporters?
 - Family
 - Friends
 - Professionals
 - Neighbors
 - Others

SDM DOESN'T NEED TO BE FORMAL

- Do not need to have formal contract.
- Sample SDM agreements and resources are available from many organizations, such as ACLU and Autistic Self-Advocacy Network in addition to DRC.
- Can also use visuals, assistive technology (AT), augmentative and alternative communication (AAC), etc.



THANK YOU

Questions?

