

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 decisionmaking 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.



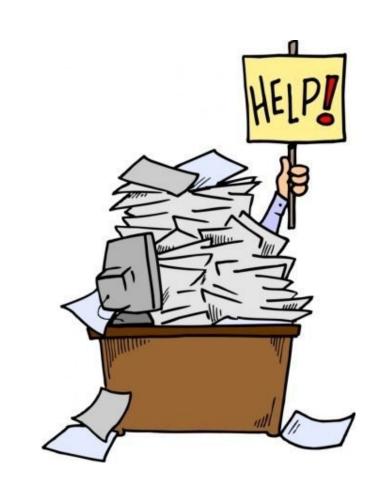
#### QUESTIONS TO CONSIDER



- 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?

