

## **Supported Decision-Making A Bench Card for Probate Judges and Practitioners in Missouri**

### **What does Missouri law require?**

**“Before appointing a guardian or conservator, the court shall consider whether the respondent's needs may be met without the necessity of the appointment of a guardian or conservator, or both, by a less restrictive alternative including, but not limited to, the following:**

**“[...] Supported decision-making agreements or the provision of protective or supportive services or arrangements provided by individuals or public or private services or agencies.” 475.075(13) RSMo.**

### **What is Supported Decision-Making?**

Supported Decision-Making (SDM) is when people “receive the help they need and want to understand the situations and choices they face, so they can make life decisions for themselves, without the need for undue or overbroad guardianship.”<sup>1</sup>

“While there is no one-size-fits-all model of Supported Decision-Making, it occurs when people choose trusted friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions.”<sup>2</sup>

### **Why is SDM important?**

When people make their own choices, they exercise “self-determination.” Research shows that people with disabilities who have more self-determination are “more likely to be employed, independent, and live in their communities,” and that there is a “positive association between self-determination and perceived quality of life in people with disabilities.”<sup>3</sup>

In contrast, when people are denied self-determination, they can feel “helpless, hopeless, and self-critical,” can have less ability to function, can be less healthy, and live less long.<sup>4</sup>

Because SDM is a part of the law in Missouri, it **MUST** be considered as an alternative before a guardianship is initiated.

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<sup>1</sup> <https://www.c-q-l.org/resources/guides/supported-decision-making-an-agenda-for-action/>

<sup>2</sup> <http://supporteddecisionmaking.org/sites/default/files/martinis-1505-bifocal.pdf>

<sup>3</sup> Shogren, Karrie A. et al. *Supported Decision-Making: Theory, Research, and Practice to Enhance Self-Determination and Quality of Life*. Cambridge, 2019 (page 8).

<sup>4</sup> Deci, E. (1975). Intrinsic motivation. New York: Plenum Press; Winick, B. (1995). The side effects of incompetency labeling and the implications for mental health law. *Psychology, Public Policy and Law*, 1(1), 6-42; Wright, J. L. (2010). Guardianship for your own good: Improving the well-being of respondents and wards in the USA. *International journal of law and psychiatry*, 33(5), 350-368.

## **Informal SDM**

Any time a person asks for help or advice in making a decision, they are using SDM. For example, a person who does not have disabilities uses SDM when seeking advice from a friend, lawyer, family member, mechanic, financial advisor, or anyone else.

## **Formal SDM**

There is no requirement that SDM be formalized, but formal SDM may be helpful in tracking decision-making supports. Someone may formalize SDM in a “Supported Decision-Making Agreement.”

**All Supported Decision-Making Agreements, whether formal or informal, should be individualized!** Any form used should be adjusted to meet a specific person’s wants and needs.

In creating an agreement, a person seeking support should address the following:

- Who do I want as supporters?
  - Ensure reliable supporters.
- What specific supports do I need for decision-making?
- What decisions do I want or need help with?
- What decisions do I NOT want/need help with?
- What principles underlie my decision-making? E.g. religious and cultural preferences

An agreement could address any number of areas, such as finances, medical, housing, employment, education, speech/language, interpersonal/social, behavioral, self-care, and organization.

**To ensure the adequacy of SDM, you can ask the following questions:**

1. Does this person need help making any decision?
  - a. If so, what types of decisions?
  - b. What types of decisions can the person make without support?
2. Who is supporting this individual?
3. Are the supporters reliable?
4. Are any more supporters needed?
5. How do supporters help with making decisions?
6. Are there additional ways to ensure that the person’s values and preferences are incorporated?

## **Resources**

**Sample SDM Agreements for Missouri:** <https://www.lifecoursetools.com/lifecourse-library/exploring-the-life-domains/supported-decision-making/>

**National Resources:** <https://supporteddecisionmaking.org/resource-library/>

**Missouri Resources:**

- <https://ihd.umkc.edu/missouri-guardianship-project/>
- [www.mofamilytofamily.org](http://www.mofamilytofamily.org)
- <https://www.mo-wings.org/add-4th-tab-resources/>