



**WAISMAN CENTER**  
UNIVERSITY OF WISCONSIN-MADISON  
University Center for Excellence in Developmental Disabilities

# ISSUE BRIEF 2019

## Making the Case for Supported Decision-Making

- Wisconsin law requires the use of “the least restrictive option” when considering guardianship. Educate judges, attorneys and guardians ad litem about the range of decision-making tools available.
- Include skill-building opportunities in school and health education that allow students with IDD to explore and practice decision-making.
- Develop and disseminate educational resources to families and young adults to help them as they make decisions at age 18.
- Access to and the use of technology can mitigate some of the decision-making needs of an individual. Disseminate information about the use of technology to support decision-making.
- Disseminate information about community resources available to everyone that can support various aspects of life skills management.

### Resources

- [Keeping Individuals with Disabilities and Aging Adults in Charge of Their Lives Supported Decision-Making and Other Alternatives to Guardianship](#) - BPDD
- [Let’s Talk About Supported Decision-Making](#) - BPDD
- [Supported Decision Making Agreement Form](#) - Wisconsin DHS
- [Advance Directives and POA Forms](#) - Wisconsin DHS
- [National Resource Center for Supported Decision Making](#)
- [Guardianship and Alternatives for Decision Making Support](#) - Got Transition
- [PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making](#) - American Bar Association
- [Supported Decision-Making for Transition Age Youth](#) - Family Voices of Wisconsin

### References

- <sup>1</sup> Shogren, K. A., Wehmeyer, M.L., Martinis, J., & Blanck, P. (2019). *Supported Decision-Making: Theory, Research, and Practice to Enhance Self-Determination and Quality of Life*. Cambridge University Press.
- <sup>2</sup> Jameson, M., Riesen, T., Polycronis, S., Trader, B., Mizner, S., Martins, J., Hoyle, D. (2015). Guardianship and the Potential of Supported Decision Making with Individuals with Disabilities. *Research and Practice for Persons with Severe Disabilities Research and Practice for Persons with Severe Disabilities*. 40(1) 36–51
- <sup>3</sup> Salzman, L. Rethinking Guardianship (Again): Substituted Decision Making as a Violation of the Integration Mandate of Title II of the Americans with Disabilities Act. (2010) *University Of Colorado Law Review*, 81, 157-245.
- <sup>4</sup> Khemka, I., Hickson, L., & Reynolds, G. (2005). Evaluation of a decision-making curriculum designed to empower women with mental retardation to resist abuse. *American Journal on Mental Retardation*, 110, 193–204.
- <sup>5</sup> Wehmeyer, M. L., & Palmer, S. (2003). Adult outcomes for students with cognitive disabilities three-years after high school: The impact of self-determination. *Education and Training in Developmental Disabilities*, 38(2), 131–144.
- <sup>6</sup> 2017 WISCONSIN ACT 345 – Wisconsin Chapter 53 <https://docs.legis.wisconsin.gov/2017/related/acts/345>



### What is Supported Decision-Making?

*Supported Decision-Making (SDM) is a way to help individuals with intellectual and developmental disabilities (IDD) make decisions with the assistance of friends, family and trusted allies. Supported Decision-Making can be used by someone who makes their own decisions as well as by those who may have legal structures such as guardianship that identifies someone else to make decisions.*



The Waisman Center along with the Wisconsin Board for People with Developmental Disabilities and Disability Rights Wisconsin have been working together to explore and advance the understanding of supported decision-making for people with intellectual and developmental disabilities in Wisconsin. Following an invitational meeting convened by the Wisconsin Supreme Court Justice Shirley Abrahamson, work began on a Wisconsin law to create supported decision-making agreements. The law was passed in 2018. This brief offers an overview on supported-decision-making and ideas to support the practice.

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### Issue Statement

Individuals with IDD are considered equal under the law, which includes the right to choose where to live, agree to medical treatment, vote, enter into contracts, marry, manage finances, and exercise legal rights just like any other adult. Some individuals with IDD may need support exercising these rights. SDM is one way of supporting an individual with a disability by using friends, family members, and professionals to help the person with IDD understand the situations and choices they face.<sup>1</sup>

The belief that individuals with IDD are capable of making their own decisions is relatively new. Historically, most individuals with IDD have been subject to a restriction of their civil rights in the courts known as guardianship. While guardianship may be appropriate for some individuals, assumptions about the capabilities of people with IDD have resulted in guardianship being commonly used as the first and only option.

Nationally the number of adults under guardianship has tripled since 1995 with approximately 90% of guardianships being the most restrictive form.<sup>2</sup> Many families report that physicians, school personnel or human service professionals recommend they seek guardianship when their young adults turn 18.

