

# ND PROTECTION & ADVOCACY PROJECT

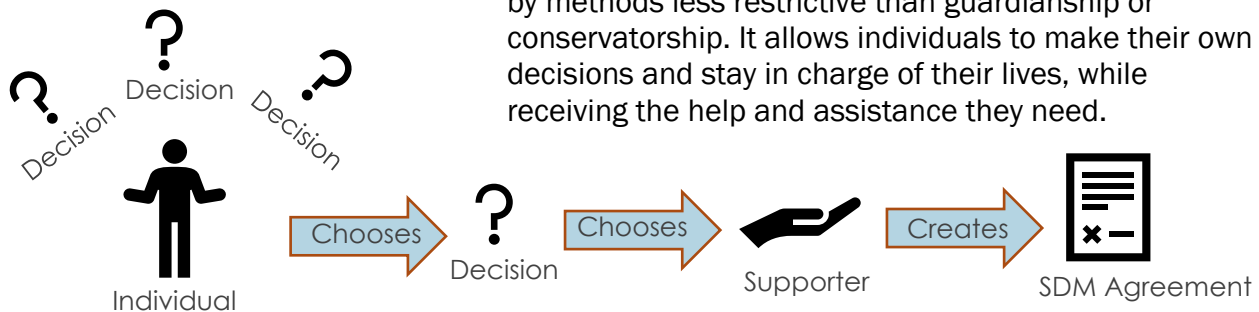
## SUPPORTED DECISION-MAKING IN NORTH DAKOTA

### THREE COMPONENTS:

- 1) The Individual
- 2) The Supporter
- 3) The Supported Decision-Making Agreement

What is Supported Decision-Making (SDM)?

- A **flexible alternative to guardianship** that can provide more opportunities for independence. Many individuals with disabilities can manage their own affairs with assistance and guidance from a Supporter.
- **Supports and services** that help an adult with a disability make his or her own **decisions** by relying on trusted friends, family members, professionals, and others.
- A **process** for making well-informed voluntary decisions by methods less restrictive than guardianship or conservatorship. It allows individuals to make their own decisions and stay in charge of their lives, while receiving the help and assistance they need.



*The Supporter cannot make the decision. The Individual makes the final decision.*

How does Supported Decision-Making work?

The **Individual** selects a Supporter to help make decision(s). The Supporter should be:

- A person they trust.
- A person that can discuss choices and decisions.

The **Supporter** can help the Individual to:

- Understand the options, responsibilities, and consequences of their decisions.
- Obtain and understand information relevant to their decisions.
- Communicate their decision to the appropriate people.

The **Supported Decision-Making Agreement** is a **written, signed, dated, and witnessed** understanding between an Individual and a trusted Supporter who agrees to aid with decision-making to maximize the Individual's ability to make informed, voluntary choices.

### SUPPORTED DECISION-MAKING IN LAW:

[North Dakota Century Code](#)  
[Chapter 30.1-36](#)

- Terminology
- Confidentiality
- Liability
- Legal requirements and presumptions
- Termination of an agreement

The following format is not mandatory, but any Supported Decision-Making Agreement template must be substantially equivalent as described in North Dakota Century Code: [N.D.C.C. Chapter 30-1-36](#)

**Supported Decision-Making Agreement**

This is a Supported Decision-Making Agreement of the following Named Individual:

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_ (cell) \_\_\_\_\_

Email: \_\_\_\_\_

I am voluntarily entering into this Agreement with the following Supporter whom I have chosen, and we agree will help me make some decisions. My Supporter does not have authority to make decision(s) for me.

Supporter's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (work) \_\_\_\_\_ (home) \_\_\_\_\_ (cell) \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to me: \_\_\_\_\_

The Individual can specify what kinds of decisions he or she does and does not want help with making on the Agreement.

The Individual can have multiple Supporters to help with different kinds of decisions. It is recommended the Individual fill out a separate agreement with each Supporter.

**Reliance on a Supported Decision-Making Agreement**

Any third person receiving a copy of the Supported Decision-Making Agreement shall rely on the Agreement, unless the third person:

- Has cause to believe the Individual is being abused.
- Has actual knowledge or notice the Supported Decision-Making Agreement is invalid or has been terminated.

A third person is not liable for acts or omissions done in good faith and in reliance on the Agreement.

**How to Terminate a Supported Decision-Making Agreement**

Supported Decision-Making Agreements can be Terminated by the:			
	Individual notifying Supporter	Supporter notifying Individual	Court
Orally	X		
Through an assistive technology (AT) device	X		
By any other act showing intent	X		
In writing	X	X	
By any additional method specified in the SDM Agreement	X	X	X
Convicting Supporter of a crime involving abuse, neglect, or exploitation			X
Issuing a restraining order to protect the Individual from the Supporter			X
Determining that the Supporter lacks capacity to make or communicate responsible decisions concerning matters affecting the health or safety of the Individual			X

*Supported decision-making and other guardianship alternatives should be considered prior to establishment of a legal guardianship.*

Want more information?

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