

Supported Decision Making in North Dakota

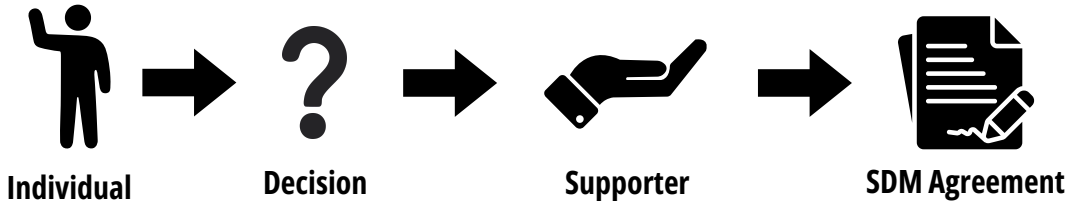
ND Protection and Advocacy Project

Three Components:

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

What is Supported Decision-Making?

- A flexible alternative to guardianship and can provide more opportunities for independence. Many elderly individuals or individuals with disabilities can manage their own affairs with assistance and guidance from a Supporter whom they trust.
 - Often defined as “Supports and Services” that help an older adult or 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 and that 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?

Individual selects a Supporter to help make decision(s):

- from someone they trust; and
- with whom they 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, and
- communicate their decision to the appropriate people.

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



For more information, contact:

1-800-472-2670

(701) 328-2950

ND Relay 711 TTY www.ndpanda.org

panda_intake@nd.gov

Supported Decision-Making Agreement

1. 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...

("Supporter's" name) _____, whom I have

chosen to be my "Supporter" of decision making. We have agreed he/she will help me make some decisions.

My "Supporter" does not have authority to make decision(s) for 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, neglected, or exploited by the Supporter;
- has actual knowledge or notice the Supported Decision-Making Agreement is invalid or has been terminated.

A third person is not subject to liability if an act or omission is done in good faith and in reliance on the Agreement.

How to Terminate a Supported Decision Making Agreement

By the Individual giving notice to the Supporter

- Orally
- In writing
- Through an assistive technology device
- By any other acts showing intent
- By any additional method specified in the SDM agreement

By the Supporter Giving Notice to the Individual

- In Writing
- By any additional method specified in the SDM agreement

By the Court

- Convicting supporter of a crime involving abuse, neglect, or exploitation
- Issuing a restraining order to protect the individual from the supporter
- Determining that the supporter lacks capacity to make or communicate responsible decisions concerning matters affecting the health or safety of the individual
- By any additional method specified in the SDM agreement

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

This project was supported in part by U.S. taxpayer funding through multiple federal agencies. The content does not necessarily represent the official views of these agencies and is not an official government document.

Please contact Protection and Advocacy if you need an alternative format

