

Supported Decision-Making “SDM”

Supported Decision-Making is Law in ND

SDM is when a person referred to in law as a Named Individual chooses another person called a Supporter to provide assistance and support to do any or all of the following things in order to make informed and voluntary choices:

- Identify, collect, and organize documents and information that apply to a decision and may be helpful when making a decision;
- Aid in understanding of documents;
- Identify available choices and advantages/disadvantages of available choices;
- Communicate a decision by the Named Individual to others; and
- Explain SDM to a court in any proceeding to create or modify a guardianship or conservatorship for the Named Individual.

N.D.C.C. §30.1-36-01(3)(a)-(g).

A Named Individual may choose one or more Supporters and enter into Agreements with the Supporter(s) for identified assistance.

The court may use SDM to limit the authority of a guardian.

N.D.C.C. §30.1-28-04(5)

SDM agreements can include assistance from a Supporter within the areas of residential, educational, medical, legal, vocational, and financial decision-making.

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SDM is a less intrusive alternative to guardianship and is consistent with the court's duty to implement the least restrictive form of intervention.
N.D.C.C. §§30.1-28-03(2)(m), 30.1-28-04(2)(4)

SDM can be used as an alternative to guardianship to support an individual's autonomy and decision-making ability. It should be examined at both guardianship establishment & guardianship review hearings

It is presumed a person has the capacity to enter into a Supported Decision-Making Agreement and that presumption can only be rebutted by clear and convincing evidence. N.D.C.C. §30.1-36-04(1). The existence of a SDM agreement may not be used as evidence of incapacity or incompetence. N.D.C.C. §30.1-36-05.

SDM is an alternate resource plan to safeguard a proposed ward's health, safety, or habilitation which can be used instead of guardianship.
N.D.C.C. §30.1-28-04(2)(c)(2)

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For more information visit
<https://www.ndpanda.org/>

