

SUPPORTED DECISION MAKING IN DELAWARE

The State of Delaware has created an option to assist people in making decisions, when that person can still make decisions, but may need some help because of physical or cognitive disability. Every person has a right to make their own choices, but some may need help.

There are several options available in Delaware for assistance with decision-making in your personal life, with health-care, or financial decisions. These options include having someone you know act as a Surrogate Decision Maker (16 Del.C. §2507) for health care decisions; act as your Advanced Health Care Directive Agent (16 Del.C. §2500 et seq.) for health care decisions; or act as your Power of Attorney for some or all of your financial matters (12 Del.C. §49A-101 et seq.). Alternately, a court can appoint a guardian (12 Del.C. §3901 et seq.).

Supported Decision Making is different from these options. Supported Decision Making allows YOU to continue to make your own decisions by enabling others to help you. They may help you by gathering information for you, or by sitting with you at your doctor's appointment and taking notes, or listening with you to what the doctor is saying, so that they can explain it to you again.

Supported Decision Making was created by Senate Bill 230 in 2016, and is found in the Delaware Code at Title 16, section 94A. Governor Jack Markell signed the bill into law on September 15, 2016. The Bill was sponsored by then Senator (now

Lieutenant Governor) Bethany Hall-Long and Representatives Debra Heffernan and David Bentz. Delaware was the second state in the nation to adopt this option of decision making.

- **WHAT IS SUPPORTED DECISION MAKING (SDM)?**

SDM is just a fancy way of describing how we all make choices. We all need help in making decisions, every single day. When you don't understand, you probably ask a friend or a family member to help you understand what's going on and what you need to do.

Before you pick a supporter, or become a supporter, and make an agreement, you should think about the type of decisions you or the person you support need help with, and how you or the supporter will help.

- **HOW DO I CREATE AN AGREEMENT AND APPOINT A SUPPORTER TO HELP ME?**

You can create an agreement by using a form which spells out what type of assistance is needed, and what the supporter has permission to do. The form is your agreement, which must be in writing. It must also be dated, and signed by two people who are not the named supporter for you, the principal, or an employee or agent of a supporter. The people who act as witnesses must also be able to understand the method of communication you use.

- **WHO CAN ACT AS A SUPPORTER FOR ME?**

You can choose the person you want to help you, whether it is a neighbor, a friend, or a family member. The person must be over 18 years of age. The only people who cannot be a supporter for you are:

- 1) People you work for, or who work for you (unless they are an immediate family member);
- 2) A person who already gets paid to provide you support services, unless you are actually paying them to be a supporter (and only a supporter), or unless they are an immediate family member; or
- 3) Someone you have a protection from abuse order against, or who has to stay away from you due to a Court order.

- **WHO WITNESSES THE AGREEMENT?**

You need to find someone to watch you sign the document which appoints the supporter. The 2 adult witnesses required may not be: a supporter for the principal, an employee or agent of a supporter named in the supported decision-making agreement, or any person who does not understand the type of communication the principal uses, unless an individual who understands the principal's means of communication is present to assist during the execution of the supported decision-making agreement.

- **WHERE CAN I GET MORE INFORMATION?**
 - Helpful links: Court of Chancery, Office of the Public Guardian, at <https://courts.delaware.gov/publicguardian/>, DHSS DSAAPD, etc.
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