

KANSAS MENTAL HEALTH COALITION

...Speaking with one voice to meet the critical needs of people with mental illness

Supported Decision Making Agreements – HB 2345

Position: The Kansas Legislature should enact HB 2345 establishing the Supported Decision Making Agreement option for individuals and families in Kansas. The Coalition believes that it is an important tool for Kansans who may face difficulties due to living with disabilities or mental illness. Supported Decision Making offers options to individuals seeking assistance with financial or health decisions without requiring them to give up their independence and ability to make their own life decisions. It is an important tool for Kansans who may face difficulties due to living with disabilities or mental illness.

The Problem: Even if a person with a disability needs extra help to make significant life decisions, their right to make their own choices should not be taken away (such as guardianship) without exploring all options and less-restrictive alternatives. Supported decision making empowers individuals with disabilities to make informed decisions about their life that protect their rights *and* ensure their safety and privacy. It involves family and friends working together to help them make complex decisions.

Why this matters: The agreement will help maximize independence, promote self-reliance, and increase self-confidence while empowering communication and supportive relationships.

- Reduces Unnecessary Guardianships by adding legal protections for supporters and businesses that honor the Agreements.
- Saves the State money by keeping people out of the court system which would save the court resources and time.
- Protects those with disabilities by having more people in their support network.
- Keeps loved ones involved because the Agreements would allow for better communication.
- Ensures a more affordable option for families, avoiding the cost of going to court.

Supporters would be required to:

- Act with the care, competence, and diligence ordinarily exercised by individuals in similar circumstances; and
- Keep information collected on behalf of the principal: Confidential; Protected by unauthorized access, use, or disclosure; and Only for the use authorized by the principal.

The bottom line: Supported Decision Making Agreements work. Kansans should also have the option to empower individual independence while encouraging the supportive involvement of family or other trusted advisors. It is important to note that this legislation does not remove the legal tools of guardianship or conservatorship but adds a less restrictive option while protecting the rights of the individual.

The Rest of the Story about Supported Decision Making Agreements

We all use Supported Decision Making in our everyday life, we can do this for others by helping them understand, think about and share their decisions.

19 State Have Enacted Supported Decision Making Agreements

There are currently 19 states, including the District of Columbia, that offer the option of Supportive Decision Making Agreements: Alabama (2023), Alaska (2018), Arizona (2023), California (2022), Colorado (2021), Delaware (2015), District of Columbia (2018), Illinois (2021), Indiana (2019), Louisiana (2020), Maryland (2022), Nevada (2019), New Hampshire (2021), New York (2022), North Dakota (2019), Rhode Island (2019), Texas (2015), Washington (2020), Wisconsin (2018), and Massachusetts (2023).

The American Bar Association Endorses Supported Decision Making Agreements

The American Bar Association adopted a Resolution August 14, 2017, encouraging the use of Supported Decision Making as an alternative to guardianship, and specifically urged states to revise their statutes to include supported decision-making as a legally recognized option.

More Information

Please support HB 2345 to add Supported Decision Making agreements to the options available for individuals and families in Kansas. The fact is, we need this mid-level option for individuals to live independently and select trusted family members, friends, or professionals to provide support when:

- Making decisions, communicating decisions, and understanding information about, options for, the responsibilities of, and consequences for decisions.
- Accessing, obtaining, and understanding information relevant to decisions necessary for managing the principal's affairs.
 - o This would include medical, psychological, financial, educational, treatments, and other records.
 - o Supporters could also use dated consent to assist the principal in obtaining protected health or education records.
- Ascertaining wishes and decisions of the principal, assisting in communicating those wishes and decisions to others, and advocating to ensure implementation of the principal's wishes or decision; and
- Accompanying the principal and participating in discussions with other people when the principal is making decisions or attempting to obtain information for such decisions.
- For parents with adult children this is crucial for helping them get the mental health help they need, especially in times of crisis.
- Brings the interdependence out into the open, and invites people to support, but not take over, the decisions of people in a mental health crisis or those with ongoing disabilities.