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HB 334 Guardianship and Supported Decision-Making Agreements Amendments

Sponsor: Rep. Nelson Abbott

Introduction

[House Bill 334](#) introduces supported decision-making (SDM) for individuals with disabilities as both (a) an alternative to guardianship and (b) a formally recognized way for individuals with a guardian to make important decisions with a trusted supporter. In addition to SDM, HB 334 seeks to create more individualization within the guardianship process, requiring Courts to review the rights of an individual subject to guardianship and to consider what rights should and must be retained by the individual and which should be turned over to the guardian.

Supported Decision-Making

SDM emerged as an alternative to traditional plenary or limited guardianship. Traditional guardianship assumes that an individual with a disability lacks the capacity to make informed decisions, and a court appoints a guardian with decision-making authority over that person. SDM recognizes that individuals with disabilities can make their own choices, even if they need support in doing so. By providing individuals with trusted advisors and tools to understand and communicate their decisions, SDM empowers them to exercise their agency and live with greater dignity and independence. The importance of SDM lies in its respect for individual autonomy, its ability to promote self-reliance and inclusion, and its potential to prevent unnecessary guardianship interventions.

Utah is one of the few states that does not currently have SDM as a legal alternative to guardianship for individuals with disabilities. This year (2025), the Utah legislature will consider adopting SDM ([HB 334](#)), which will help individuals with disabilities exercise more autonomy and control over their lives. By enacting SDM legislation, Utah would formally acknowledge the rights of individuals with disabilities to make their own choices and receive tailored support from their chosen trusted advisors.

SDM provides a supportive framework to help individuals express their preferences and make choices in various areas of life, such as education, healthcare, housing, relationships, finances, and even activities of daily living like shopping, cooking, and working. SDM gained national visibility through a 2013 Virginia court case (Ross and Ross v. Hatch) where a 29-year-old woman with Down syndrome, Jenny Hatch, successfully argued her case for using SDM in lieu of guardianship (Martinis et al., 2023; Quality Trust for Individuals with Disabilities, 2013). Since 2013, many states have started to officially recognize SDM as a less restrictive alternative to guardianship for people with disabilities. Currently, 27 U.S. states and the District of Columbia have passed legislation that supports SDM (National Resource Center for Supported Decision-Making, n.d.a).

Numerous reports and studies have documented the benefits of SDM, including:

- Increased self-determination and quality of life: Individuals with disabilities who utilize SDM often experience greater control over their lives and a sense of empowerment (Martinis et al., 2023; National Resource Center for Supported Decision Making, n.d.b).
- Improved access to employment: SDM can help individuals with disabilities overcome barriers to employment by providing them with the tools and support they need to make informed career decisions (Shogren et al., 2015).
- Enhanced engagement in community settings: SDM empowers individuals with disabilities to participate more fully in their communities, fostering a sense of connection and belonging (Salzman, 2010).
- Greater involvement in life experiences: SDM allows individuals with disabilities to experience both positive and negative life events, essential for personal growth and development (National Resource Center for Supported Decision Making, n.d.b).

By enacting SDM legislation, Utah would formally acknowledge the right of individuals with disabilities to make their own choices and receive tailored support from their chosen trusted advisors. This would empower individuals with greater autonomy and self-determination and promote their inclusion and participation in society. Through SDM, individuals can express their preferences, access information, and make informed decisions in areas such as healthcare, finances, and personal relationships. This framework allows for flexibility and customization to meet each individual's unique needs and goals, ensuring their voices are heard and respected. By implementing SDM legislation, Utah can create a more inclusive and supportive environment for individuals with disabilities, fostering their independence while safeguarding their rights.

Guardianship Processes

The current process for obtaining full guardianship over an individual with disabilities in Utah is a standardized practice that tends to provide a blanket definition of Guardianship for individuals with disabilities. This process can leave guardians and individuals with guardians unsure of guardianship duties and what rights remain with the individual with a disability. In fact, many cases leave guardians certain they have full decision-making authority over all areas of life of the person they have guardianship over, when this is not actually the case. Under the [Guardianship Bill of Rights](#), individuals with a guardian still maintain specific rights, such as, but not limited to, making choices around life decisions, privacy in communication, and making healthcare decisions. Changing the process of obtaining guardianship to be more individualized, as proposed by [HB 334](#), will provide all parties with greater clarity of the duties of a Guardian and the rights and decision-making authority retained by the individual with a disability.

Proposed Legislation (HB 334)

Utah Representative Nelson Abbott has proposed [HB 334](#), which would clarify and individualize the Guardianship process and establish SDM within the state's legal framework. Regarding SDM, this pivotal legislation will provide official and legal recognition to SDM agreements, allowing individuals with disabilities greater control and decision-making that impacts their lives. The proposed legislation

specifically outlines that individuals over the age of 18 with disabilities can enter into an SDM agreement with at least one trusted individual of their choice, empowering them to receive personalized support while exercising their right to self-determination. If an individual has a Guardian, a process is put in place to ensure the Guardian is made aware of and provides their support for the SDM agreement before it is put into place. Additionally, this bill outlines that an individual may only enter into a SDM agreement if they enter into the agreement voluntarily and without coercion and understands the nature and effect of the agreement. In addition to SDM, HB 334 will amend the process for obtaining guardianship to ensure all parties are clear on which rights an individual retains and which rights a guardian has responsibility over.

Additional Resources

- Past Legislation During Utah’s 2024 General Sessions:
 - 2024: [HB 197, Requirements for Supported Decision-Making Agreements](#)
- Utah Parent Center: [Benefits and Considerations of Supported Decision-Making](#)
- Utah Disability Law Center: [Supported Decision-Making and Guardianship Comparison](#)
- Utah Developmental Disabilities Council: [My Voice Counts: A Self Advocate’s Guide to Supported Decision-Making](#)
- National Resource Center for Supported Decision-Making: [Frequently Asked Questions](#)

Citations

- Martinis, J., Harris, J., Fox, D., & Blanck, P. (2023). State guardianship laws and supported decision-making in the United States after *Ross and Ross v. Hatch*: Analysis and implications for research, policy, education, and advocacy. *Journal of Disability Policy Studies*, 34(1), 8-16. <https://doi-org.dist.lib.usu.edu/10.1177/10442073211028586>
- National Resource Center for Supported Decision-Making. (n.d.a). In Your State. <https://supporteddecisionmaking.org/in-your-state/>
- National Resource Center for Supported Decision-Making. (n.d.b). Supported Decision-Making Stories. <https://supporteddecisionmaking.org/stories/>
- Quality Trust for Individuals with Disabilities. (2013). *Supported decision-making: An agenda for action*. <https://www.c-q-l.org/wp-content/uploads/2019/12/CQL-Supported-Decision-Making-Agenda-For-Action-2015.pdf>
- Salzman L. (2010). Rethinking guardianship (again): Substituted decision making as a violation of the integration mandate of Title II of the Americans with Disabilities Act. *University of Colorado Law Review*, 81, 157–244. https://heinonline-org.dist.lib.usu.edu/HOL/Page?collection=journals&handle=hein.journals/ucollr81&id=170&men_tab=s_rchresults
- Shogren, K. A., Wehmeyer, M. L., Palmer, S. B., Rifenbark, G. G., & Little, T. D. (2015). Relationships between self-determination and postschool outcomes for youth with disabilities. *The Journal of Special Education*, 48(4), 256-267. <https://doi-org.dist.lib.usu.edu/10.1177/0022466913489733>