



Center for Public
Representation

TESTIMONY OF CENTER FOR PUBLIC REPRESENTATION

In Support of S. 155/H.261: An Act Relative to Supported Decision-Making

Submitted by Morgan K. Whitlatch, Director of Supported Decision-Making Initiatives

Hearing before the Joint Committee on Children, Families and Persons with Disabilities

September 8, 2025

Dear Chair Livingstone, Chair Kennedy, and the Honorable Committee Members:

I appear on behalf of the Center for Public Representation (CPR) to express strong support for Senate Bill 155 and House Bill 261, legislation that would establish a legal framework for Supported Decision-Making (SDM) agreements in the Commonwealth of Massachusetts.

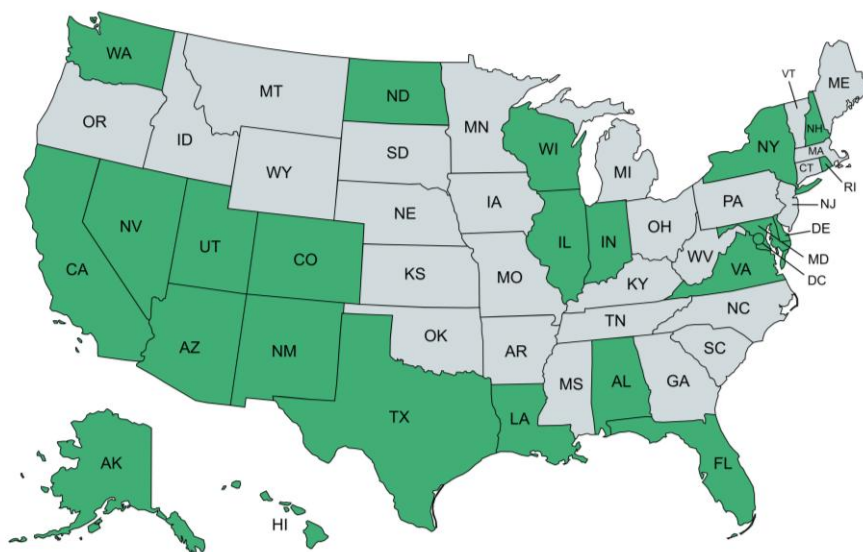
CPR is a legal advocacy center that is committed to protecting and advancing the rights of people with disabilities, including older adults, by using legal strategies, systemic reform initiatives, and policy advocacy. Our main office is in Easthampton, Massachusetts. We are an active member of the **Massachusetts Advocates for Supported Decision-Making (MASDM)**, a large and diverse coalition of leading disability and elder justice and advocacy organizations working closely together with the bills' sponsors for passage of this SDM legislation.¹ **CPR is also a national leader in advancing SDM.** We are a key partner of the Center on Youth Voice, Youth Choice (CYVYC),² which is a national research, training, and resource center that promotes the use of alternatives to guardianship, including SDM for youth with intellectual or developmental disabilities. For the past five years, CPR has spearheaded CYVYC's Community of Practice, providing technical assistance to teams in eleven States. CPR also regularly provides training, consultation, and technical assistance on SDM to legal service organizations funded by the Massachusetts Legal Assistance Corporation and to the federally funded disability rights network across all 50 states and territories.

Under the SDM model, adults can turn to a network of supporters – family members, friends, colleagues, and others they trust – to help them make their own decisions regarding healthcare, finances, jobs, and other personal matters. **The SDM model allows adults with disabilities and older adults to exercise their autonomy and promotes self-determination.** Based on what we have learned from our work nationally and in Massachusetts, too many people are unnecessarily placed under overly restrictive guardianships, even when they would be able to make their own decisions with individualized assistance from people they trust. Widespread recognition of their right to use SDM as an alternative would allow many to retain their legal rights and dignity.

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CPR, in partnership with Nonotuck Resource Associates, completed the first two-year SDM demonstration project in Massachusetts in 2015, followed by five others across the State in 2017. From independent evaluations that were conducted, **we know that the SDM model works, strengthens support networks, and can transform lives.**³ To learn more visit our website: www.supporteddecisions.org.

For Massachusetts, the next step is to pass legislation that creates a legally recognized framework for SDM agreements – like Senate Bill 155 and House Bill 261 – in order to improve access to and enforceability of SDM in the State. **Legislatures in at least 23 other States and the District of Columbia have already passed comprehensive SDM agreement laws.** These include Texas (2015), Delaware (2016), Wisconsin (2018), the District of Columbia (2018), Alaska (2018), North Dakota (2019), Indiana (2019), Nevada (2019), Rhode Island (2019), Washington (2020), Louisiana (2020), Virginia (2021), Colorado (2021), Illinois (2021), New Hampshire (2021), Maryland (2022), New York (2022), California (2022), Alabama (2023), Arizona (2023), Florida (2024), Hawaii (2025), New Mexico (2025), and Utah (2025).⁴ We strongly urge Massachusetts to join them.



In addition, with the passage of this legislation, **Massachusetts would also join the District of Columbia and the nine other States** – including Connecticut and New Hampshire – **that have passed laws recognizing SDM within school district transition planning and transfer-of-rights discussions** for students with disabilities approaching the age of majority.⁵

We have heard from partners in a number of these states that implementing these SDM statutes has resulted in people with disabilities improving their decision-making skills and experiencing greater self-esteem and better family relationships. In addition, there has been an apparent decrease in the need for guardianship. For example, since Wisconsin's SDM legislation was introduced, the annual number of guardianship requests in that state decreased by almost 20 percent over the next three years.⁶ This suggests that passing Senate Bill 155 and House Bill 261 would **not only benefit people with disabilities and their supporters** by making it easier for them to access and enforce their use of the SDM model. Passage would also **benefit the**

probate courts by reducing the financial and administrative burden of having to address guardianship petitions for people who do not need them.

That said, SDM does not replace guardianship for those who need it. **None of the SDM legislation that has passed in other States has resulted in the elimination or abolishment of guardianship systems**, and neither would Senate Bill 155 and House Bill 261. Rather, SDM is an additional and less restrictive option -- another legal tool in the decision-making toolbox that people with disabilities, older adults, and their families can consider using.

SDM has also been recommended and endorsed by a number of respected national organizations and federal agencies. Notably:

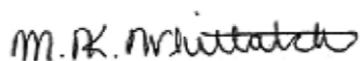
- The **American Bar Association** passed a resolution in 2017 urging state legislatures to amend their guardianship statutes to recognize SDM as a less restrictive option.⁷
- SDM was specifically included as a less restrictive alternative to guardianship and conservatorship in the **Uniform Law Commission's 2017 update**⁸ to Article 5 of the Uniform Probate Court, which was the basis of Massachusetts' guardianship law.
- **Other national organizations and agencies** recognizing the importance of SDM include the National Guardianship Association, The Arc of the United States, the U.S. Department of Education, the American Association on Intellectual and Developmental Disabilities, United States Senate Special Committee on Aging, and the National Council on Disability, among others.⁹ SDM is also recognized as a less restrictive alternative in the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA),¹⁰ a 2017 update to the model guardianship law that requires courts to rule out such alternatives before appointing a guardian.

In addition, advancing SDM was recognized as a priority during **the Fourth National Guardianship Summit**, which was convened in May 2021 by the National Guardianship Network with leaders in the guardianship field, including judges, attorneys, guardians, legal scholars, disability and elder justice advocates, and policymakers. The Summit Delegates adopted recommendations¹¹ that urged states to make some of the very reforms that Senate Bill 155 and House Bill 261 would make to Massachusetts law, including "provid[ing] education, training, and outreach programs on supported decision-making."¹²

There is no need for an SDM registry. Section 8 of House Bill 261 – unlike Senate Bill 115 – would establish a special legislative commission to study the need for a registry of SDM agreements that would enable provider to verify that the SDM agreement is current. We urge you to delete this provision. **No State with an SDM agreement law has created such a registry.** There is no similar registry for health care proxies or for powers of attorney in Massachusetts, and establishing one for SDM agreements would likely be complex, administratively burdensome, expensive, and – most importantly – an infringement on the privacy of people who use SDM. If the provision to create the special legislative commission remains in House Bill 261, we urge you to include several people who use SDM and their supporters among the members.

In short, CPR's experience with SDM has shown that it is a viable and beneficial alternative to guardianship that is nationally recognized as a best practice in the lives of people with disabilities. Enactment of Senate Bill 155 and House Bill 261 would enable many more individuals and families in Massachusetts to access and enforce this innovative model. We urge you to favorably report these bills out of Committee and make no further amendments that could create additional barriers to the use of SDM.

Sincerely,



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¹ See CENTER FOR PUBLIC REPRESENTATION, *Massachusetts SDM Legislation*, <https://supporteddecisions.org/massachusetts-sdm-legislation/> (last visited Sept. 8, 2025) (describing the membership of the Massachusetts Advocates for Supported Decision-Making).

² See Center on Youth Voice, Youth Choice, *Empowering Youth to Advance Alternatives to Guardianship*, <https://youth-voice.org/> (last visited Sept. 8, 2025).

³ See Cathy Costanzo, Hon. Kris Glen, & Anna Krieger, *Supported Decision-Making: Lessons Learned from Pilot Projects*, 72 SYRACUSE L. REV. 99 (2022), <https://lawreview.syr.edu/wp-content/uploads/2022/09/99-163-Costanzo-2.pdf> (law review article prepared to inform the deliberations of the Fourth National Guardianship Summit held in May 2021).

⁴ See TEX. EST. CODE ANN. §§ 1357.001 - 1357.102 (2015 & 2017); DEL. CODE ANN. tit. 16, §§ 9401A-9410A (2016); WIS. STAT. ANN. §§ 52.01-52.32 (2018); D.C. CODE ANN. §§ 7-2131 - 7-2134 (2018); ALASKA STAT. ANN. §§ 13.56.010-13.56.195 (2018); N.D. CENT. CODE ANN. §§ 30.1-36-01 - 30.1-36-08 (2019); IND. CODE ANN. §§ 29-3-14-1 - 29-3-14-13 (2019); NEV. REV. STAT. ANN. §§ 162C.010 - 162C.330 (2019); 42 R.I. GEN. LAWS ANN. §§ 42-66.13-1 - 42-66.13-10 (2019); WASH. REV. CODE ANN. §§ 11.130.700 - 11.130.755 (2020, eff. 2022); LA. STAT. ANN. § 13:4261.101- 13:4261.302 (2020); ; VA. CODE ANN. § 37.2-314.3 (2021); COLO. REV. STAT. ANN. Sec. 15-14-801 - 15-14-806 (2021); 755 ILL. COMP. STAT. ANN. 9/1 to 9/99 (2022); N.H. REV. STAT. § 464-D:1 (2021); MD. CODE ANN., EST. & TRUSTS § § 18-101 - 18-109 (2022); N.Y. MENTAL HYG. LAW § § 82.02 - 82-15 (2022); CAL. WELF. & INST. CODE § § 21000 to 21008 (2023); , ALA. CODE § § 26-1B-1 to 26-1B-10 (2023); ARIZ. REV. STAT. ANN. § § 14-5721 to 14-5722 (2023); FLA. STAT. ANN. § 709.2209 (2024); H.R. 320, 33rd Leg., Reg. Sess. (HI 2025); N.M. STAT. ANN. § § 24-7D-11 to 24-7D-11 (2025); UTAH CODE ANN. § § 75-5-701 to 75-5-709 (2025). See also Center for Public Representation, *U.S. Supported Decision-Making Laws* (April 2025), <https://supporteddecisions.org/resources-on-sdm/state-supported-decision-making-laws-and-court-decisions/> (noting that a total of at least 39 States and the District of Columbia have passed legislation referring to SDM in various ways and providing an interactive map highlighting them).

⁵ See CONN. GEN. STAT. ANN. § 10-74s (2023); FLA. STAT. ANN. § 1003.5716 (2024); IND. CODE ANN. § 20-35-6-4 (2023), LA. STAT. ANN. § 17:1944 (2024); N.H. REV. STAT. ANN. § 186-C:3-c (2022); OR. REV. STAT. ANN. § 343.181 (2022); S.C. CODE ANN. § 59-33-320 (2016); TEX. EDUC. CODE ANN. § § 29.011, 29.0112, 29.017 (2017); WIS. STAT. ANN. § 115.807 (2018).

⁶ See WSAW-TV, *Guardianship requests decline as knowledge of alternative legal option grows* (Aug. 9, 2021), available at <https://www.wsaw.com/2021/08/10/guardianship-requests-decline-knowledge-alternative-legal-option-grows/> (stating that, in Wisconsin, “since the [SDM] law was introduced, guardianship requests have declined each year from 5,147 in 2017 to 4,146 by 2020”).

⁷ See AMER. BAR. ASSOC., Resolution 113 (2017), https://www.americanbar.org/content/dam/aba/administrative/law_aging/2017_SDM_%20Resolution_Final.pdf.

⁸ See NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, *Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act* (2017), available at <https://tinyurl.com/b6uzh43k>.

⁹ See CENTER FOR PUBLIC REPRESENTATION, *U.S. Agencies and National Organizations Promoting Supported Decision-Making* (last visited Sept. 8, 2025), <https://supporteddecisions.org/about-supported-decision-making/organizations-advocating-for-supported-decision-making/>.

¹⁰ See NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, *Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act* (2017), available at <https://tinyurl.com/b6uzh43k>. UGCOPAA is an update of Article V of the Uniform Probate Code, which is the basis of Massachusetts guardianship law in the Massachusetts Uniform Probate Code, G.L. c. 190B.

¹¹ SUMMIT DELEGATES, *Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability - Recommendations Adopted by Summit Delegates*, 72 SYRACUSE L. REV. 29 (2022), <https://lawreview.syr.edu/wp-content/uploads/2022/09/29-40-Preface-2.pdf> (see Recommendations 2.1, 2.2, 2.3, 2.4, 3.3, 3.4, and 5.2).

¹² Compare Fourth National Guardianship Summit Recommendation 2.1 with Section 1 of S. 109.