



Oregon

Tina Kotek, Governor

Department of Human Services

Office of Developmental Disabilities Services

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Senate Bill 528 would update Oregon law to:

- Help ensure guardianship orders are narrowly tailored to meet a person's specific support need.
- Formally recognize, authorize, and define supported decision-making in Oregon.
- Require that supported decision-making be explored as a less restrictive alternative before appointing a guardian. This is consistent with [American Bar Association Resolution 113](#) (2017), which recommends that state laws explicitly call out supported decision-making because it is often not otherwise explored as a less restrictive alternative.
- Help ensure sure public and private entities recognize supported decision-making as a reasonable accommodation (e.g. courts, judges, doctors, residential providers, schools, social service agencies, fiduciaries, banks, etc.).
- Supported decision-making has been best practice for supporting people with disabilities for decades. People who make their own decisions have better outcomes, are more independent and integrated into their communities, better employed, healthier, and better able to recognize and resist abuse. See "[Beyond Guardianship: Towards Alternatives That Promote Greater Self-Determination.](#)" Report from the National Council on Disability at p. 131 (March 22, 2018). Structures and frameworks for supported decision-making exist within social service delivery systems, yet are commonly not recognized as an accommodation by other entities like courts, doctors, schools, banks, etc.
- Modernize Oregon guardianship law to explicitly reference supported decision-making, similar to other states including: [Indiana](#) (2019); [Rhode Island](#) (2019); [North Dakota](#) (2019); [Nevada](#) (2019); [Washington](#) (2019) [Maine](#) (2018); [Tennessee](#) (2018); [Alaska](#) (2018); [Delaware](#) (2016); [Wisconsin](#) (2018); [Texas](#) (2015). Additionally, the [Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act \(UGCOPAA, 2017\)](#) recognizes Supported Decision-Making.
- Guardianship will continue to remain an option in Oregon and people can use supported decision-making when under guardianship.

Examples of Impact:

- SB 528 would lead to increased clarity regarding the scope of a guardian's authority. Current guardianship orders lack the specificity needed. Guardianship orders are often interpreted to be plenary or "full" guardianships by default rather than narrowly tailored

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to meet a person's support needs. This helps perpetuate the notion that a guardian controls all aspects of a person's life.

- During the COVID-19 pandemic existing law requiring reasonable accommodation in a hospital setting proved to be insufficient. Oregon law had to be changed to explicitly recognize the right of a person with a disability to have a support person present if needed to access healthcare and medical treatment (i.e. to gather information, evaluate options, and/or communicate a decision to health care providers).
- People with disabilities continue to face barriers when attempting to access other services (banks, employment services, the court system, as well as other common goods and services) because, while supported decision-making has been best practice in the field of supporting people with disabilities for decades, often times other public entities fail to recognize it as an accommodation.
- Supported decision-making is not in fact explored as a less restrictive alternative in a protective person proceeding because it is not explicitly recognized under Oregon law.
- People have at times been unable to access employment services though vocational rehabilitation because a guardian did not want them to work. Current Oregon law gives a guardian the authority to arrange for training and education, but does not give a guardian the authority to make the decision on the person's behalf, or override a person's decision to work. SB 528 would ensure guardianship orders are more clear regarding the scope of a guardian's authority.

Next Steps:

- Amendments may be needed. ODDS recommends a workgroup to refine the language.

More Background / What is Supported Decision-Making?

- Supported decision-making is when a person uses trusted family, friends, or professionals for support to understand, evaluate, and communicate their decisions. It gives the person with a disability the tools to make their own decisions. This is an approach nearly all people use when making decisions and can be a very important and reasonable accommodation for a person with a disability. All other forms of "less restrictive alternatives" recognized under Oregon law are some other forms of surrogate or replacement decision-making. With supported decision-making, the person continues to make their own decisions.
- Read more at: www.supporteddecisionmaking.org.
- See Jordan's story here: <https://youth-voice.org/stories-of-supported-decision-making/jordans-story/>.

For more information please contact:

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