

VOR Policy Statement on Guardianship and Supported Decision Making

Guardianship is the legal process whereby the courts appoint a person “to have the care and custody of a minor or of an adult who has been legally determined to be incapacitated.” (www.mo.bar.org) Guardianships are awarded to protect the individual from abuse, neglect, and exploitation and guardians are expected to act in the best interests of the individual concerning their residential, medical, psychiatric, behavioral, and financial needs. Legal guardianship is both a responsibility and a privilege.

Supported Decision Making (SDM) is a national initiative that promotes “a process in which adults who need assistance with decision-making ... receive the help they need and want to understand the situations and choices they face, so they can make life decisions for themselves, without the need for undue or overbroad guardianship”. Many advocates for SDM go further in explicitly supporting the elimination of guardianship. VOR believes that SDM is not a valid replacement for legal guardianship as it lacks standards, accountability, and proven effectiveness in protecting people with significant disabilities.

VOR Principles:

- **VOR supports guardianship** for people who are determined by a court of law to be incapacitated in making decisions for themselves in some or all aspects of their lives.
- **VOR supports guardians**, especially relatives and close friends of the individual, who willingly take on the responsibility and duties of guardianship, as required by law, to protect the vulnerable individual from abuse, neglect, and exploitation. Most of us, including legal guardians, rely on friends, family, and trusted professionals to advise us on important decisions.
- **VOR supports state courts** in upholding reporting and monitoring requirements that assure the accountability of guardians to protect the rights and best interests of the individual.
- **VOR opposes** the granting of guardianship to anyone who has, or would have an excessive number of wards to oversee and support
- **VOR opposes initiatives that are intended to eliminate legal guardianship** or to make it more difficult **for** families and friends of vulnerable individuals to become guardians. These initiatives could result in a greater risk to people with significant disabilities for abuse, neglect, and exploitation.

- **VOR opposes Supported Decision Making as a replacement for guardianship.** SDM assumes that the individual has the capacity to make decisions and give informed consent. Our disabled family members for the most part do not have this capacity.
- **VOR does not oppose the use of Supported Decision Making for all who voluntarily wish to use methods promoted by advocates of SDM.** However all decisions must rest ultimately with the individual, or for those who are not capable of making decisions for themselves, with the court-appointed legal guardian. Assurances should be made that guardianship procedures are available to those who need them, regardless of their participation in SDM activities.

Federal Law Supports Family Decision Making

“Individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive, including regarding choosing where the individuals live from available options, and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families.” - The Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 USC 15001(c)(3)(2000)