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MENTAL HEALTH LEGAL ADVISORS COMMITTEE

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Submitted Electronically

September 9, 2025

Honorable Jay D. Livingstone, Chair

Joint Committee on Children, Families and Persons with Disabilities State House Room 146

24 Beacon Street

Boston, MA 02133

Honorable Robyn K. Kennedy, Chair

Joint Committee on Children, Families and Persons with Disabilities State House Room 507

24 Beacon Street

Boston, MA 02133

Re: Support for H.261/S.155: *An Act Relative to Supported Decision-making*

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

The Massachusetts Mental Health Legal Advisors Committee (MHLAC) is an agency of the judiciary that provides legal and policy advocacy to indigent people with mental health concerns throughout the Commonwealth. On behalf of MHLAC, I respectfully urge the Joint Committee to support H.261/S.155, *An Act Relative to Supported Decision-making Agreements for Certain Adults*.

Supported Decision-Making is a Cost-Effective Model that Benefits People with Mental Health and Other Disabilities

Supported Decision-Making (SDM) is a less restrictive alternative to guardianship or conservatorship.¹ It allows a person to obtain assistance to the extent that they want it, from people they choose to help them understand and make their own informed choices and decisions about a range of personal and financial issues and to convey those decisions to others.²

¹ These bills do not eliminate guardianship or conservatorship as means to support or protect an incapacitated person where a court deems that necessary.

² See Nat'l Conference of Commissioners on Uniform State Law, Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (2017) <http://tinyurl.com/azfnxrsj> (hereinafter "UGCOPAA"), at § 102(31); see also, Supported Decision-Making Program (July 17, 2023) available at [Supported Decision Making Program | ACL Administration for Community Living](#).

The health benefits of SDM for people with disabilities, including mental health disabilities, are widely recognized, both nationally and internationally.³ SDM improves treatment engagement and results. In a recent review of SDM for people with serious mental illness, for example, researchers found “favourable evidence for [supported decision-making] in reducing, more so than treatment-as-usual, suicidal ideation and drivers, and some symptom measures.”⁴

SDM is also respectful of human autonomy. The fact that people need help in negotiating their lives does not diminish the intensity of their desires and preferences. SDM is respectful of an individual’s expressed wishes and provides a non-coercive means for an individual to receive support in considering options and weighing benefits and consequences enabling them to make their own decisions.⁵

Finally, SDM is time efficient and economical as a person can enter into a SDM Agreement without court involvement and with minimal expense.

The Bills Provide Expanded Access to SDM in Massachusetts

SDM has already been used informally in Massachusetts and at least one Massachusetts court has terminated a guardianship after the individual entered into a supported decision-making agreement.⁶ Creating a new legal framework that formally recognizes SDM as an option for people will result in its expanded use to the benefit of the Commonwealth and needy residents by affording greater access to SDM agreements and enhancing their recognition and acceptance.⁷

³ At least 39 States and the District of Columbia have passed legislation recognizing supported decision-making in various ways. See 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/>. The ABA has also endorsed SDM. See AMER. BAR. ASSOC., *Resolution 113*, at 1 (2017) (urging courts to consider supported decision-making as a less restrictive alternative to guardianship); see also *Less Restrictive Options*, AMER. BAR. ASSOC. (NOV. 21, 2023) available at [Less Restrictive Options](#) (endorsing supported decision-making and noting the increase in acceptance of SDM nationally by legal practitioners, courts and legislatures).

⁴ C.J. Francis, et al., *Supported Decision-Making Interventions in Mental Healthcare: A Systematic Review of Evidence on the Outcomes for People With Mental Ill Health*, 27 *Health Expectations* (2024) available at <https://onlinelibrary.wiley.com/doi/full/10.1111/hex.70134>.

⁵ See id.; see also Jeste, D.V., et al., *Supported Decision Making in Serious Mental Illness*, 81 *PSYCHIATRY* 28 (2018) available at https://www.tandfonline.com/doi/10.1080/00332747.2017.1324697?url_ver=Z39.88-2003&rft_id=ori:rid:crossref.org&rft_dat=cr_pub%20%20pubmed.

⁶ Cathy E. Costanzo, et al., *Supported Decision-Making: Lessons Learned from Pilot Projects*, 72 *SYRACUSE L. REV.* 99, 114-28 (2022); *In re Guardianship of Cory J. Carlotto*, Docket No. BE09P0253, slip op. at 5-8 (Mass. Berkshire Cnty Prob. & Fam., Dec. 7, 2015) (first Massachusetts court order terminating guardianship in favor of an SDM agreement).

⁷ Michael Kendrick, et al., *How to Expand Supported Decision-Making and Increase Informed Choices*, *The National Center on Advancing Person-Centered Practices and Systems* (NCAPPS),

The Proposed Legislation Will Enhance the Dissemination of Information About and Resources for Supported Decision-Making Agreements for Transition-Age Students with Disabilities and Their Parents

Professional literature demonstrates the positive impact and benefits of SDM for transition-age youth with disabilities. Researchers have found that SDM improves self-confidence and decision-making skills. This tends to increase youths' engagement in their communities.⁸

The proposed legislation requires school districts to offer information and resources on how SDM can serve as an alternative to guardianship and conservatorship for special education eligible youth sixteen years and older and their families.⁹ Since this must happen well before the student turns eighteen, students and their families will have more complete information to consider their options and to set up supports that facilitate successful transitions.¹⁰ This will not be onerous for school districts to implement given that they are already required to provide other information and resources for transition-age students in special education and their families.

A SDM Registry is Unnecessary.

There is no need to establish a special legislative commission to study the need for a registry for SDM agreements as required by Section 8. The creation of a mandatory registry for SDM agreements would likely impede, or even deter, people with disabilities from exploring SDM agreements as an option. Further, a registry would be costly, confusing, and violate privacy. Other guardianship and conservatorship alternatives such as health care proxies and durable power of attorney agreements are not registered.

There is no good reason for imposing this on SDM agreements. We urge you to delete this provision. If the provision remains in the bills, please include people who use SDM and their supporters among members of the commission.

(October 2021), at p. 4-5, available at [How to Expand Supported Decision-Making and Increase Informed Choices](#) (discussing the need for state-enacted legislation to expand access to SDM).

⁸ Renee M. Turchi, MD, MPH, FAAP, Dennis Z. Kuo, MD, MHS, FAAP, *et al.*, *Considerations for Alternative Decision-Making When Transitioning to Adulthood for Youth with Intellectual and Developmental Disabilities: Policy Statement*, 153 PEDIATRICS 1, 3 (2024), American Academy of Pediatrics, available at [PEDS2024066841_proof.pdf](#)

⁹ Similar legislation requiring the provision of information and resources to transition-age students eligible for special education and their families about SDM have been passed in the Northeast including in Connecticut (PA-123, §41, description available at [C G A - Connecticut General Assembly](#)) and New Hampshire (S.B. 134 description available at [supported-decision-making-nhdoe-resource-for-iep-teams 0.pdf](#))

¹⁰ Crystal Williams and Richard A. Price, *The Case for Early Transition-Planning for Students With Significant Support Needs: Implications for Policy and Practice*, 3 INCLUSIVE PRACTICES 34 (2024) available at [The Case for Early Transition-Planning for Students With Significant Support Needs: Implications for Policy and Practice - Crystal S. Williams, Richard A. Price, 2024.](#)

The existing significant safeguards in the bill will sufficiently protect people using SDM agreements.

The bills provide extensive protection for people using SDM agreements from abuse, neglect, exploitation, or a failure of a supporter to carry out their duties. No further protective amendments to the bills are necessary. Undue procedural requirements could impede use of SDM agreements.

MHLAC urges the Committee to report the bills favorably. Their passage would put Massachusetts in line with 23 states and the District of Columbia, all of which have a formal legal framework in place for supported decision-making. Enabling expanded acceptance of and access to SDM would offer people with disabilities greater autonomy and dignity.

Thank you.

Respectfully submitted,

/s/ Deborah A. Dorfman

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