



## COMMONWEALTH of VIRGINIA

NELSON SMITH  
COMMISSIONER

DEPARTMENT OF  
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES  
Post Office Box 1797  
Richmond, Virginia 23218-1797

Telephone (804) 786-3921  
Fax (804) 371-6638  
[www.dhds.virginia.gov](http://www.dhds.virginia.gov)

January 16, 2025

To: The Honorable Glen Youngkin, Governor of Virginia  
The Honorable Winsome Earle-Sears, Lieutenant Governor of Virginia  
The Honorable Todd Gilbert, Speaker of the House  
The Honorable Louise Lucas, President Pro Tempore

From: Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services

RE: House Bill 2230, Chapter 232, 2021 Acts of Assembly

Chapter 232 of the 2021 Acts of Assembly (House Bill 2230) directs the Department of Behavioral Health and Developmental Services (DBHDS) to create a Supported Decision-Making Agreement (SDMA) template for individuals with intellectual and developmental disabilities to use, develop and provide education regarding the development and use of SDMAs, develop information and protocols related to preventing, identifying, and addressing abuse and exploitation of individuals using SDMAs, and to collect data regarding the use of SDMAs in Virginia. Specifically, the language reads:

*B. The Department shall develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement. Such program shall include (i) specific training opportunities for individuals with intellectual and developmental disabilities and who seek to enter into supported decision-making agreements, individuals interested in serving as supporters pursuant to supported decision-making agreements, family members of principals and individuals with intellectual and developmental disabilities who seek to enter into supported decision-making*

*agreements, and members of the medical, legal, and financial professions and other individuals who provide services to individuals with intellectual and developmental disabilities who may enter into supported decision-making agreements and...Such program shall also include development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements.*

*C. The Department shall collect data regarding the utilization of supported decision-making agreements in the Commonwealth to guide the development of policies and programs to enhance the use of supported decision-making agreements and shall report such information together with recommendations to enhance the utilization of supported decision-making agreements annually to the Governor and the General Assembly by November 1.*

Please find enclosed the report in accordance with House Bill 2230 DBHDS staff are available should you wish to discuss this request.

CC: The Honorable Janet V. Kelly, Secretary, Health & Human Resources



# **Fiscal Year 2023**

## **Supported Decision-Making Report**

### **(House Bill 2230 of the 2021 Acts of Assembly)**

Annual Report on Supported Decision Making

**November 1, 2023**

*A Life of Possibilities for All Virginians*

1220 BANK STREET • P.O. Box 1797 • RICHMOND, VIRGINIA 23218-1797

PHONE: (804) 786-3921 • FAX: (804) 371-6638 • WEB SITE: [WWW.DBHDS.VIRGINIA.GOV](http://WWW.DBHDS.VIRGINIA.GOV)

## Executive Summary

Chapter 232 of the 2021 Acts of Assembly (House Bill 2230) directs the Department of Behavioral Health and Developmental Services (DBHDS) to create a Supported Decision-Making Agreement (SDMA) template for individuals with intellectual and developmental disabilities to use, develop, and provide education regarding the development and use of SDMAs, develop information and protocols related to preventing, identifying, and addressing abuse and exploitation of individuals using SDMAs, and to collect data regarding the use of SDMAs in Virginia.

Virginia has studied supported decision-making in 2014, 2019, and 2020. In 2022 DBHDS created a workgroup to help with the development of the SDMA template and protocol to address abuse and exploitation of individuals using SDMAs. Since then, DBHDS has focused on increasing the public's awareness of supported decision-making and SDMAs throughout Virginia by conducting trainings and building partnerships with stakeholders who interact with individuals with intellectual and developmental disabilities (DD). From January 2023 through August 2023 there were 17 training sessions conducted, reaching over 750 individuals with DD, parents/caregivers/ family members of individuals with DD, practitioners, educators, waiver providers, those in the medical field, and more.

### Training sessions covered the following topics:

- Overview of Supported Decision-Making Agreements
- Overview of the 3 Discovery Tools
- Completing the Virginia Supported Decision-Making Agreement Template
- Overview of Decision-making Options in Virginia
- Decision-making for Children ages 0-8 years old

**The following represents some of the organizations that collaborated with DBHDS to host training sessions, reviewed information and documentation, and increased awareness about the use of SDMAs for individuals with DD this year:**

- The Arc of Virginia
- The Arc of Loudoun
- The Disability Law Center of Virginia (DLCVA)
- The DBHDS Office of Human Rights
- The Department of Medical Assistance Services (DMAS)
- The Harrisonburg- Rockingham Community Services Board
- The Parent Educational Advocacy Training Center (PEATC)

**Additionally, the following recommendations remain from the 2022 Supported Decision-Making Workgroup and feedback from constituents and stakeholders over the past year:**

1. Explore other sources for data collection.
2. Change and update the state Administrative Code to reflect more person-centered wording and clarify roles and responsibilities.

3. Codify SDMAs beyond the DBHDS administrative code and expand the use of SDMAs to other disability populations.
4. Ensure written information and forms are available in other languages and in alternate formats to increase accessibility and utilization.
5. Develop guidance on how to use supported decision-making to overturn unnecessary guardianships.
6. Investigate the implementation of a uniform tool for capacity evaluations.
7. Explore the implementation of a volunteer Supporter program.

Supported decision-making and SDMAs are an integral piece to increasing autonomy and self-determination for individuals with disabilities. Continuing to provide education and training and removing barriers to the use of supported decision-making. SDMAs as opposed to more restrictive alternatives, will play an important part in increasing utilization. Additionally, continued outreach and training targeted to those who interact or support individuals with disabilities, will help more individuals to live independent, person-centered lives.

## Preface

Chapter 232 of the 2021 Acts of Assembly (House Bill 2230) directs the Department of Behavioral Health and Developmental Services (DBHDS) to create a Supported Decision-Making Agreement (SDMA) template for individuals with intellectual and developmental disabilities to use, develop and provide education regarding the development and use of SDMAs, develop information and protocols related to preventing, identifying, and addressing abuse and exploitation of individuals using SDMAs, and to collect data regarding the use of SDMAs in Virginia. Specifically, the language states:

*B. The Department shall develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement. Such program shall include (i) specific training opportunities for individuals with intellectual and developmental disabilities and who seek to enter into supported decision-making agreements, individuals interested in serving as supporters pursuant to supported decision-making agreements, family members of principals and individuals with intellectual and developmental disabilities who seek to enter into supported decision-making agreements, and members of the medical, legal, and financial professions and other individuals who provide services to individuals with intellectual and developmental disabilities who may enter into supported decision-making agreements and...Such program shall also include development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements.*

*C. The Department shall collect data regarding the utilization of supported decision-making agreements in the Commonwealth to guide the development of policies and programs to enhance the use of supported decision-making agreements and shall report such information together with recommendations to enhance the utilization of supported decision-making agreements annually to the Governor and the General Assembly by November 1.*

# House Bill 2230 Supported Decision Making Report

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## Background

### Supported Decision-Making Workgroups: 2020 and 2022

Chapter 855 of the 2020 Acts of Assembly directed DBHDS to organize a workgroup to further study the use of SDMAs in Virginia. The Workgroup met three times in 2020 and provided a report with its findings and recommendations to the Chairmen of the Senate Committee of the Judiciary and the House Committee on Health, Welfare, and Institutions. Most notably, the Workgroup developed four core principles for supported decision-making for Virginia.

### Supported Decision-Making Core Principles for Virginia:

1. Every individual should be presumed capable of making his or her own decisions.
2. When an individual requires assistance in making decisions, the least restrictive option that meets the individual's needs should be pursued, and every effort should be made to maximize an individual's autonomy and independence.
3. Supporters, guardians, substitute decision-makers, and other agents should always take into consideration an individual's expressed personal preferences to the extent appropriate.
4. Making good decisions takes practice and individual growth. Everyone should have the opportunity to learn and grow from making their own decisions, sometimes called "Dignity of Risk." Risky decision-making should not be motivation for restricting an individual's rights through guardianship or substitute decision-making.

In 2022, DBHDS convened a workgroup to help with processing and developing the directives laid out in Chapter 232 of the 2021 Acts of Assembly (House Bill 2230). The 2022 Supported Decision-Making Workgroup used the principles from the 2020 workgroup as a guide and met a total of ten times between February and August 2022. The Workgroup was made up of individuals from various state agencies, advocacy organizations, self-advocates, and family members of individuals with developmental disabilities. Workgroup members created the Virginia SDMA template, Discovery Tools, and supplemental documents, which were the focus of the majority of trainings throughout 2023.

Additionally, the Workgroup discussed a variety of topics and ultimately agreed upon the following goals for SDMAs in Virginia:

1. People with developmental disabilities (DD) (including intellectual disabilities) in Virginia exercise maximum self-determination through supported decision-making agreements as the first option before guardianship is considered.
2. Virginians are less reliant on guardianship for individuals with developmental disabilities (including intellectual disabilities) once supported decision-making agreements are available.
3. People with developmental disabilities (including intellectual disabilities), their families, and other community members, will have increased knowledge related to supported decision-making and supported decision-making agreements compared to other decision-making options.

## **Education and Training**

One of the directives of DBHDS by Chapter 232 of the 2021 Acts of Assembly (House Bill 2230), is to develop and provide education about the development and use of SDMAs to individuals with intellectual and developmental disabilities, their family members, and members of any profession that provide services to individuals with intellectual and developmental disabilities, including those in the fields law, finance, and medicine. The 2022 SDMA Workgroup also named the following additional populations to target for education and training: community services boards, DD Waiver providers, other state agencies, educators, public and private legal guardians, and anyone interested in or serving as a Supporter.

From January through August 2023, 17 training sessions and presentations were conducted across Virginia. The target audiences included individuals with intellectual and developmental disabilities, parents/caregivers/family members of those with disabilities, community services boards, service providers working with those with disabilities, and professionals working in the fields of human rights, education, mental health, medicine, and early intervention.

Thirteen of the sessions were conducted virtually (through Zoom or Microsoft Teams), three were solely in-person, and one session was hybrid. The 17 training sessions reached an estimated 750 individuals total, though the exact number is likely higher due to multiple people viewing from the same account during virtual sessions. Specific data related to demographics was not collected during this year's training sessions.

Training sessions covered the following topics:

- Overview of Supported Decision-Making Agreements
- Overview of the 3 Discovery Tools
- Completing the Virginia Supported Decision-Making Agreement Template
- Overview of Decision-making Options in Virginia
- Decision-making for Children ages 0-8 years old

During this time, DBHDS also participated in four resource fairs and conventions to provide information specifically to individuals with disabilities, parents/caregivers/family members of those with disabilities, community services boards, service providers working with those with disabilities, and professionals working in the field of education. The events that DBHDS participated in were:

- The Virginia Down Syndrome Association Education Conference
- The Fauquier County School Resource Fair
- The Life in The Community Symposium (coordinated by the Arc of Virginia, Virginia own Syndrome Association, and Central Virginia Autism Society)
- The I'm Determined "Sip'n'Chat" sponsored by the Virginia Department of Education (VDOE) and the VCU Partnership for People with Disabilities

## **Collaborations and Partnerships**

Throughout 2023, DBHDS conducted meetings with many organizations and agencies to work on creating partnerships to help increase awareness and use of SDMAs in Virginia. DBHDS partnered with the Parent Educational Advocacy Training Center (PEATC), The Arc of Virginia, and The Arc of Loudoun to conduct trainings related to supported decision-making and SDMAs throughout Virginia. Additionally, DBHDS collaborated with the DBHDS Office of Human Rights and the Department of Medical Assistance Services (DMAS) to ensure that all information presented, and any new materials created, align with regulations.

DBHDS worked with VDOE throughout the year to collaborate on ways to give information about supported decision-making and SDMAs to students, families, and school staff. This collaboration is ongoing. DBHDS also met with representatives from Truist Bank to begin discussions on how to supply education to those in the financial sector. Throughout these discussions, DBHDS was able to link Truist Bank employees to other organizations to help develop a financial literacy program for individuals with developmental and intellectual disabilities. DBHDS provided consultation and resources to the Wilson Workforce Rehabilitation Center's PERT program, funded by the Department of Aging and Rehabilitative Services (DARS), to assist with the development of their new curriculum on decision-making. DBHDS will continue to provide assistance as this work progresses.

Internally, DBHDS' Offices of Community Network Supports and Integrated Health Support Network are collaborating to create informational documents and offer trainings to bring awareness about SDMAs to those providing medical services to individuals on the Developmental Disabilities (DD) Waiver.

DBHDS continues its work building collaborations and partnerships to further educate professionals in the medical, financial, and legal fields on supported decision-making and SDMAs.

## **Supported Decision-Making Utilization**

It is important to understand the use of SDMAs in Virginia in order to identify barriers and better target education, training, and outreach. SDMA utilization data for Virginia is limited at this time due to the recency of formal recognition of SDMAs in Virginia per Chapter 232 of the 2021 Acts of Assembly (House Bill 2230). The Virginia SDMA template became available for public use on July 15, 2022. While there has been nothing preventing individuals from creating SDMAs prior to the development of the Virginia SDMA template, there has also been no means for collecting data regarding the number of individuals who created and used SDMAs prior to July 2022. DBHDS identified currently available methods of collecting SDMA utilization data and continues to work on identifying and/or developing other methods of data collection beyond the service scope of DBHDS.

## **Virginia Waiver Management System (WaMS)**

DBHDS currently has the ability to collect information regarding demographics, services, and decision-making representation through the online Waiver Management System (WaMS) used to manage data on individuals with Developmental Disabilities Waivers (DD Waivers) and on the

DD Waivers waiting list. As of July 2023, there were 16,575 individuals with DD Waivers and 15,109 individuals on the DD Waivers waiting list<sup>1</sup>.

The scope of information available in WaMS varies depending on whether individuals are on a DD Waiver or on the DD Waivers waiting list. Information related to whether or not someone has an SDMA is currently collected in the Person-Centered Individual Support Plan (PC ISP) in WaMS. At this time, only individuals with a DD Waiver are required to have a PC ISP in WaMS. Thus, DBHDS is only able to obtain SDMA utilization data for the individuals that currently have a DD Waiver. Questions related to the use of SDMAs became required elements on the PC ISP as of May 2022. Data elements were updated on May 1, 2023, in order to increase the type of data that could be collected and to align element options with the life areas listed in the Virginia SDMA template. Information related to satisfaction of Supporters and whether or not someone was interested in creating an SDMA, is collected in the newest version of the PC ISP. These data elements are included under the “Representation” section of the PC ISP and are collected at least annually by the individual’s Support Coordinator/ Case Manager at their annual PC ISP meeting. Please see Appendix A for charts detailing the questions asked, possible answers, and usage of data related to SDMA questions on the PC ISP in WaMS.

For this report, data from ISPs with effective dates January 1, 2023, through June 30, 2023 (FY23 Q3 and Q4) was analyzed. Please see Appendix B for historical data from ISPs with effective dates May 1, 2022, through December 31, 2022 (FY23 Q1 and Q2).

**Number of ISPs with Effective Dates from January 1, 2023- June 30, 2023**

Age of individuals with ISPs with effective dates within data range	FY23 Q3	FY23 Q4	Total	Percent
≤17 years old	177	219	396	5.86%
≥18 years old	2,938	3,426	6,364	94.14%
<b>Total</b>	<b>3,115</b>	<b>3,645</b>	<b>6,760</b>	<b>100%</b>
<b>Percent</b>	<b>46.08%</b>	<b>53.92%</b>	<b>100%</b>	

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<sup>1</sup> “Waiver Management System (WaMS) Report”. Virginia Department of Behavioral Health and Developmental Services. July 2023.

**FY23 Q3 WaMS Data**

Type of Decision-Making Support	Total	Percent
None	848	28.86%
Supported Decision-Making Agreement only	5	0.17%
Supported Decision-Making Agreement with Other*	63	2.15%
Other*	682	23.21%
Legal Guardianship only	1,160	39.48%
Selected options not possible to combine**	180	6.13%
<b>Total/ Percent</b>	<b>2,938</b>	<b>100%</b>

*\*Represents one or a combination of the following decision-making options: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative.*

*\*\* Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian or Power of Attorney and legal guardian.*

**FY23 Q4 WaMS Data**

Type of Decision-Making Support	Total	Percent
None	923	26.94%
Supported Decision-Making Agreement only	3	0.09%
Supported Decision-Making Agreement with Other*	65	1.90%
Other*	763	22.27%
Legal Guardianship only	1,466	42.79%
Selected options not possible to combine**	206	6.01%
<b>Total/ Percent</b>	<b>3,426</b>	<b>100%</b>

*\*Represents any of the following individual or in combination: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative*

*\*\* Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian or Power of Attorney and legal guardian.*

**FY23 Q4 WaMS Data (May 1- June 30, 2023)- Satisfaction with Supporters**

If the individual has an SDMA, Is the individual satisfied with their Supporter(s)?	Total	Percent
Yes	9	100%

No	0	0%
<b>Total/ Percent</b>	9	100%

#### FY23 Q4 WaMS Data (May 1- June 30, 2023)- Interested in creating an SDMA

If the individual does not have an SDMA, is the individual interested in developing a supported decision-making agreement?	Total	Percent
Yes	28	11.48%
No	216	88.52%
<b>Total/ Percent</b>	244	100%

## National Core Indicators (NCI)

DBHDS worked with the VCU Partnership for People with Disabilities to create new questions and data elements for the National Core Indicators (NCI) Project. The NCI Project gathers information from individuals with disabilities, family members, and providers about their overall satisfaction with supports and services through surveys and face-to-face interviews. Adding questions about the use of supported decision-making to the NCI tools was one of the recommendations from the 2022 SDM Workgroup to improve sources for data collection. Data from the NCI Project is currently being analyzed by VCU and is unavailable at this time.

#### NCI Supported Decision-Making Data Elements

Question	Answer Options
VA-4. Do you have a Supported Decision-Making Agreement?	2. Yes 3. Had the option to create one but chose not to 1. No 99. Don't know, no response, unclear response
VA-5. Do the Supporters in your Supported Decision-Making Agreement help you the way you want? For example, do they help you in the areas of life you want and/or need help in? Do they help you in the ways that you like to be helped?	98. Not applicable, does not have a Supported Decision-Making Agreement 2. Yes 3. Maybe, not sure 1. No 99. Don't know, no response, unclear response

## Recommendations

The following recommendations are compiled from the 2022 SDMA Workgroup and feedback from stakeholders during the period covered in this report.

### 1. *Examine Other Sources for Data Collection*

- The Workgroup and stakeholders recommended the creation of an ADA-compliant state hosted SDMA website/page. This would provide easy access to clear, understandable information in one location, to increase utilization by individuals with disabilities and their families. Electronic versions of printed information, recorded trainings, and tutorial videos would be available on this website, as well as information and resources specific to the targeted professionals listed in the code. The Workgroup also recommended that DBHDS explore the cost to develop interactive tools on the website that would allow individuals with DD to easily create and digitally sign, print, download, and share their SDMA templates. This web site/page could collect data on the number of new/original SDMAs, how many have been updated and their creator, and the number of website and web page clicks. This would increase available data on the use of SDMA's to identify barriers for specific populations and help formulate recommendations for future changes.
- The Workgroup recommended further exploring options for data collection, including external data sources that could report on utilization of SDMAs. This will aid in data collection and increasing the familiarity of SDMAs to the general public in different settings. The following future collaborations were identified and will be explored for relevance, feasibility, time, and cost:
  - Virginia Department of Aging and Rehabilitative Services (DARS)- Add questions to DARS tools and resources to inquire whether or not an individual has an SDMA, the use of Supporters, and any data elements collected at the time of an adult protective services report.
  - Department of Medical Assistance Services (DMAS)- Add elements to the Quality Management Review tool for Community Service Boards to ensure validity of data collected in WaMS.
  - DBHDS Computerized Human Rights Information System (CHRIS) Human Rights portal- Add a question in the demographics section indicating whether an individual has an SDMA.

## 2. *Update the Virginia Code*

The Workgroup and stakeholders recommended the following changes and updates to § 37.2-314.3. to reflect more person-centered verbiage, clarify responsibilities, and reduce barriers to finding Supporters:

- Change the title and definition of “Principal” to “Decision Maker, to mean “an adult with an intellectual or developmental disability who seeks to enter or has entered into a supported decision-making agreement with a supporter.”
- Update the definition of a “Supported decision-making agreement” to state “an agreement between a *decision maker* and a supporter that sets out the specific terms of support to be provided by the supporter, including (i) helping the *decision maker* monitor and manage his medical, financial, and other affairs; (ii) assisting the *decision maker* in accessing, obtaining, and understanding information relevant to decisions regarding his affairs; (iii) assisting the *decision maker* in understanding information, options,

responsibilities, and consequences of decisions; and (iv) ascertaining the wishes and decisions of the *decision maker* regarding his affairs, assisting in communicating such wishes and decisions to other persons, and advocating to ensure the wishes and decisions of the *decision maker* are implemented, *as decisions made by the decision maker are legally enforceable.*”

- Update the definition of a “Supporter” to mean “a person who has entered into a supported decision-making agreement with a *decision maker*. *Under no circumstances should a supporter be liable for the decisions a decision maker makes based on the advice given by a supporter, unless in the event of grossly or intentionally negligent.*”

### **3. *Codify SDMAs and expand their use across all disability populations.***

The Workgroup and stakeholders recommended that the Commonwealth of Virginia codify SDMAs to expand their use across the Commonwealth of Virginia beyond the purview of DBHDS. Another recommendation was made to expand the use of SDMAs to all individuals with disabilities, regardless of their disability type or diagnosis. SDMAs increase self-determination and promote improved health outcomes, which benefit people across all disabilities.

### **4. *Improve Information Accessibility***

While several documents are currently translated into Spanish (SDMA instructions, FAQs, the Discovery Tools, and the Virginia Supported Decision-Making Agreement template), other educational information has not been translated. The Workgroup and stakeholders recommended that all written information and forms are made available in both English and Spanish at a minimum, and in accessible formats. A recommendation was also made to add closed captioning and/or sign language interpretation to training videos. Translating these materials and increasing their accessibility to individuals with vision or hearing impairments may help improve equity amongst Virginia’s diverse population and further the goal of increasing SDMA utilization.

### **5. *Develop Guidance for Reversing Unnecessary Guardianships***

The Workgroup and stakeholders also recommended that DBHDS collaborate with an external organization to develop guidance materials on using supported decision-making and SDMAs to help individuals overturn unnecessary guardianships. While the 2013 case of Jenny Hatch can be cited as a success for using supported decision-making to reverse or overturn guardianship, more concrete guidance would benefit those who find themselves in a similar situation, as well as an information resource for those who are serving as legal guardians. This was a common request voiced by attendees at DBHDS training sessions and events held throughout the year.

### **6. *Investigate the Implementation of a Uniform Capacity Tool***

12VAC35-115-145 of the Virginia Administrative Code, “*Determination of capacity to give consent or authorization*,” states that in order for a court to appoint a legal guardian or conservator, the petitioner must prove that the individual lacks capacity and needs a substitute decision maker. The language in code gives general guidance on what should be considered when determining capacity but does not provide examples of preferred assessments or preferred

documentation of evidence used to determine capacity. Given the same set of circumstances, the outcome of a capacity evaluation may vary depending on the staff who implemented the evaluation and how it was documented. It is important that these processes and decisions are as consistent statewide as possible. For that reason, the Workgroup recommended that Virginia investigate the implementation of uniform capacity evaluations throughout the Commonwealth. This will help reduce ambiguity and subjective decisions when an individual's capacity is in question and when courts are considering more restrictive options that will remove an individual's civil rights.

## ***7. Explore Implementation of a Volunteer Supporter Program***

Natural supports<sup>2</sup> help individuals with disabilities increase their independence and improve their quality of life. However, a lack of natural supports is a consistent barrier for individuals with disabilities<sup>3</sup>. The lack of available natural supports can result in individuals being diverted to Virginia's public guardianship program as a means to receive support with decision making. The Workgroup recommended that Virginia explore implementation of a volunteer Supporter program to assist individuals with limited or no natural supports, in creating and using a SDMA. A volunteer Supporter program could reduce the amount of state funds targeted for public guardianship, towards SDM as a less restrictive decision-making support pathway for individuals with developmental disabilities. Once the parameters for implementation have been vetted, the Supporter program could be created and piloted in a specific locality within Virginia or developed by state agencies and programs already providing public guardianship assistance. A fiscal impact study would need to be conducted to determine the cost-effectiveness and feasibility of implementation.

## **Conclusion**

Supported decision-making and SDMAs are an integral piece to increasing autonomy and self-determination for individuals with disabilities. Virginia made some progress in 2022 and 2023 by ensuring that the Virginia SDMA template and Discovery Tools are available in Spanish online, as well as collaborating with the National Care Indicators Survey for more data; however, more steps need to be taken to increase accessibility and usage of SDMAs throughout the Commonwealth. Continuing to educate individuals with disabilities, as well as those who interact or support individuals with disabilities (i.e. those in the fields of education, law, finance, and medicine) about the option of using supported decision-making and SDMAs as opposed to more restrictive alternatives, will play an important part in increasing utilization. In addition to ongoing education and training, removing barriers such as access to information using forms through websites that are ADA compliant, and increasing the availability of SDMAs to individuals in other populations (not just those with developmental and intellectual disabilities), will also increase use. Increased use of SDMAs will make Virginia a more inclusive state by ensuring that people with disabilities are supported to make their own decisions and are considered capable and contributing members of their community.

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<sup>2</sup> Natural supports are personal relationships or associations, such as family and friends, which are developed in the community and enhance a person's quality of life.

<sup>3</sup> Carli Friedman (2021) Natural supports: the impact on people with intellectual and developmental disabilities' quality of life and service expenditures, *Journal of Family Social Work*, 24:2, 118-135, DOI: [10.1080/10522158.2020.1861158](https://doi.org/10.1080/10522158.2020.1861158)

## Appendix A: WaMS ISP Data Elements

### ISP Data Elements and Data Use: May 2022- April 2023

New ISP element	Data entry options	Data use
Individual has a Supported Decision-Making Agreement?	Yes/No	This tells us the number of individuals with an SDMA.
If yes, enter the effective date of the Agreement.	Date	This provides data regarding the effective date of the SDMA.
Decisions that are supported under the Agreement.	Medical, Financial, Service Planning, Other (describe), If other, 6000-character box	This provides data related to the areas of support under the SDMA.

### ISP Data Elements and Data Use: May 2023- Current

New ISP element	Data entry options	Data use
Individual has a Supported Decision-Making Agreement?	Yes/No	This tells us the number of individuals with an SDMA.
If yes, enter the effective date of the Agreement.	Date	This provides data regarding the effective date of the SDMA.
If yes, select the decisions that are supported under the Agreement.	Health and Personal Care, Friends and Partners, Money, Where I Live and Community Living, School and Education, Working, My rights and Safety, Meeting and Talking with My Supporters, Other	This provides data related to the areas of support under the SDMA.

	(describe), If other, 6000-character box	
If no, following a conversation about supported decision-making, is the individual interested in developing a supported decision-making agreement?	Yes/No	This tells us the number of individuals interested in creating SDMAs.
If the individual has an SDMA, Is the individual satisfied with their Supporter(s)?  If no, who will support the individual in making changes to their SDMA?	Yes/No  If no, 3000-character box to provide details about who will support the individual in making changes to their SDMA.	This provides data related to satisfaction with Supporters.

## Appendix B: SDMA Utilization Data 2022

### Number of ISPs with Effective Dates from July 1, 2022- December 31, 2022

Age of individuals with ISPs with effective dates within data range	FY23 Q1	FY23 Q2	Total	Percent
≤17 years old	207	234	441	6.33%
≥18 years old	3,338	3,191	6,529	93.67%
<b>Total</b>	<b>3,545</b>	<b>3,425</b>	<b>6,970</b>	<b>100%</b>
<b>Percent</b>	<b>50.86%</b>	<b>49.14%</b>	<b>100%</b>	

### FY23 Q1 WaMS Data

Type of Decision-Making Support	Total	Percent
None	943	28.25%

Supported Decision-Making Agreement only	5	0.15%
Supported Decision-Making Agreement with Other*	124	3.71%
Other*	675	20.22%
Legal Guardianship only	1,334	39.97%
Selected options not possible to combine**	257	7.70%
<b>Total/ Percent</b>	<b>3,338</b>	<b>100%</b>

\*Represents any of the following individual or in combination: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative

\*\* Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian or Power of Attorney and legal guardian.

#### FY23 Q2 WaMS Data

Type of Decision-Making Support	Total	Percent
None	871	27.30%
Supported Decision-Making Agreement only	3	0.09%
Supported Decision-Making Agreement with Other*	77	2.41%
Other*	696	21.81%
Legal Guardianship only	1,322	41.43%
Selected options not possible to combine**	222	6.96%
<b>Total/ Percent</b>	<b>3,191</b>	<b>100%</b>

\*Represents any of the following individual or in combination: Power of Attorney, Advance Medical Directive, DBHDS Authorized Representative

\*\* Represents the selection of any types of support or representation that are not legally possible to combine, such as an SDMA and a legal guardian or Power of Attorney and legal guardian.