

THE FLORIDA SENATE
2024 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

HB 73 — Supported Decisionmaking Authority

by Reps. Tant, Koster, and others (SB 446 by Senators Simon and Harrell)

The bill explicitly incorporates the concepts of supported decision-making (SDM) and SDM agreements into state law. SDM is a tool that allows people with disabilities to retain their decision-making capacity by choosing supporters to help them make choices, instead of relying upon court-appointed guardians or guardian advocates to make choices for them.

In summary, the bill:

- Amends the statute governing the appointment of guardian advocates for persons with developmental disabilities to require:
 - Courts to consider the specific needs and abilities of individuals when delegating decision-making tasks.
 - Petitions and court orders to identify and assess the sufficiency of guardian advocacy alternatives like SDM.
- Amends the powers of attorney statute to authorize the granting of SDM agreements as a form of a power of attorney.
- Creates a statute defining, authorizing, and regulating SDM agreements.
- Amends statutes governing adjudications of incapacity and the appointment of guardians to:
 - Require petitions to state whether alleged incapacitated persons use assistance, including SDM, and if so, why it is insufficient for them to exercise their rights.
 - Authorize examining committee members to facilitate, when requested by appointed counsel, communication between supporters and allegedly incapacitated persons.
 - Clarify that suggestions of capacity must address whether the ward has the ability to exercise removed rights on his or her own or with appropriate assistance.
- Amends the statute regulating the development of an IEP (i.e., an individual education plan) for the purpose of accommodating students with disabilities in public schools, to include SDM agreements as one method by which students may provide informed consent to allow his or her parents to continue to participate in educational decisions.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2024.

Vote: Senate 40-0; House 117-0