



# Division of Developmental Disabilities

## Family & Self-Advocate Conversations

February 9, 2023



# Division of Developmental Disabilities' Mission:

To ensure that people with intellectual and developmental disabilities have equal opportunities and receive the services and supports they need to live and work in South Dakota communities.



# Meeting Agreements

- Be considerate of other attendees - keep comments brief to give others an opportunity to share
  - Individual-specific situations & questions are best addressed privately - please contact DDD directly after this session
- Mute microphone when not speaking
- One person talks at a time
  - Use the Chat to share questions or thoughts when others are speaking
- Be respectful of others' perspectives
- Listen to understand before providing solutions
- Change to Gallery view to see other attendees

# Guardianship or Alternatives?

What are the options and how do I choose?



# IDEA and Transfer of Rights

Unless otherwise planned, on student's 18th birthday, all rights and responsibilities granted to parents under IDEA transfer to the student.

Schools must notify students and parents of rights transfer no later than the student's 16th birthday. Students must have opportunities to take part in their education and transition plans.

# Plans/Alternatives to Transfer of Rights

- Supported Decision-Making,
- Durable Power of Attorney,
- Healthcare Power of Attorney,
- Representative Payee Designation,
- Limited Guardianship and/or Conservatorship,
- Full Guardianship/Conservatorship,

Or any combination of the above and/or other supports to form an individualized plan -**not a one-size-fits-all strategy!**

# Supported Decision-Making

- Supported Decision Making (SDM) is a fancy name for what we all do everyday –ask people we trust for help in making decisions.
- Sometimes it seems easier to just decide for someone, but by allowing them to make their own decisions and mistakes, we teach self-determination and allow for growth.
- Flexible approach.
- Can be combined with any other legal supports, including guardianship!
- Many states have formalized this process in statute. Some require IEP teams to include discussions starting as early as elementary school. Some now have form agreements in their laws.
- See <http://www.supporteddecisionmaking.org> for example agreements and ideas –then get creative!

# Power of Attorney

- One competent person (the *principal*) gives another (the *attorney-in-fact* or *agent*) the right to act on their behalf in certain situations, i.e.
  - Healthcare Decisions –provide copies to providers
  - Financial Management –i.e., banking, bills, cell phone plans
- Requires notarized signature of competent principal.
- Can nominate or give agent power to designate a guardian if later necessary.
- Court is not involved -unless contested.
- Good idea to seek legal counsel in drafting –tailor it to individual needs as specifically as possible to promote independence.
- State Bar Association has contacts and resources:  
<https://findalawyerinsd.com/>



# Limited Guardianship/Conservatorship

- Can be expressly limited in TIME or in SCOPE -ask the court to order protection only for what's needed.
- The protected person retains all rights that have not been granted to the guardian/conservator. See SDCL 29A-5-118.
- "A guardian/conservator shall exercise authority **only to the extent necessitated by the protected person's limitations, and if feasible, shall encourage the protected person to participate in decisions, to act on his own behalf, and to develop or regain the capacity to manage personal/ financial affairs.** A guardian/conservator shall, to the extent known, consider the express desires and personal values of the protected person when making decisions, and shall otherwise act in the protected person's best interests and exercise reasonable care, diligence, and prudence." SDCL 29A-5-402, 405

# Full Guardianship and Conservatorship

- Prevents Transfer of Rights, if completed before 18<sup>th</sup> birthday
- Traditionally a default option, but also the most restrictive
- Relationship in which one or more individuals (guardians/conservators) make decisions on behalf of another individual (protected person).

**Guardians** make decisions about everyday life (e.g., healthcare, services and supports, living arrangements, etc.)

**Conservators** make decisions about finances (e.g., spending money, savings, real property ownership, personal property management, etc.)

- Can only be created by a court, legal counsel recommended.
- Full Details (aka, the law –SDCL 29A-5):  
[https://sdlegislature.gov/Statutes/Codified\\_Laws/2052308](https://sdlegislature.gov/Statutes/Codified_Laws/2052308)

South Dakota Bar, Attorney Referral: <https://findalawyerinsd.com/>

<https://www.youtube.com/watch?v=KRl9Ck1ESsg>

## Alternatives to Guardianship Including Supported Decision-Making



# CHARTING the LifeCourse



## Tool for Exploring Decision Making Supports

This tool was designed to assist individuals and supporters with exploring decision making support needs for each life domain.

Name of Individual: \_\_\_\_\_

Name of person completing this form: \_\_\_\_\_

Relationship to individual (circle one): Self Family Friend Guardian Other: \_\_\_\_\_

How long have you known the individual? \_\_\_\_\_

For each question below, mark the level of support you need when making and communicating decisions and choices in the Charting the LifeCourse life domains.



I can decide with no extra support



I need support with my decision



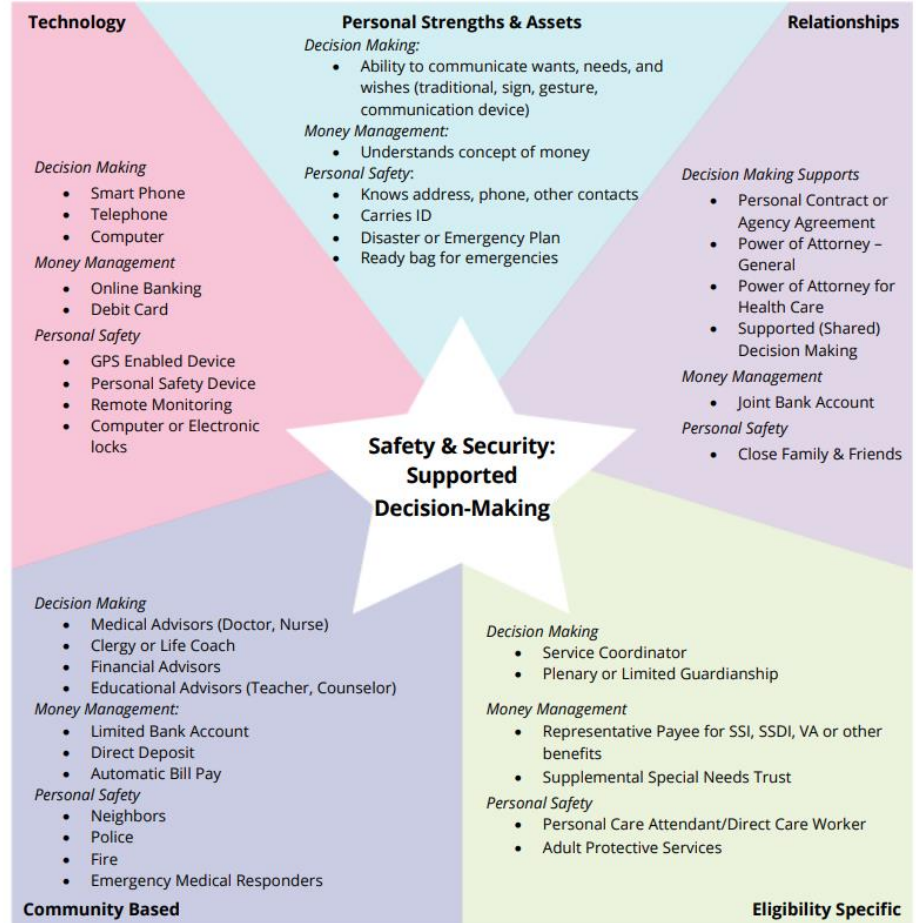
I need someone to decide for me

### DAILY LIFE & EMPLOYMENT

Can I decide if or where I want to work?			
Can I look for and find a job (read ads, apply, use personal contacts)?			
Do I plan what my day will look like?			
Do I decide if I want to learn something new and how to best go about that?			
Can I make big decisions about money? (open bank account, make big purchases)			
Do I make everyday purchases? (food, personal items, recreation)			
Do I pay my bills on time (rent, cell, electric, internet)			
Do I keep a budget so I know how much money I have to spend?			
Am I able to manage the eligibility benefits I receive?			
Do I make sure no one is taking my money or using it for themselves?			

### HEALTHY LIVING

Do I choose when to go to the doctor or dentist?			
Do I decide/direct what doctors, medical/health clinics, hospitals, specialists or other health care providers I use?			
Can I make health/medical choices for my day-to-day well-being? (check-ups, routine screening, working out, vitamins)			
Can I make medical choices in serious situations? (surgery, big injury)			
Can I make medical choices in an emergency?			
Can I take medications as directed or follow a prescribed diet?			
Do I know the reasons why I take my medication?			
Do I understand the consequences if I refuse medical treatment?			
Can I alert others and seek medical help for serious health problems?			
Do I make choices about birth control or pregnancy?			
Do I make choices about drugs or alcohol?			
Do I understand health consequences associated with choosing high risk behaviors (substance abuse, overeating, high-risk sexual)			



Access the LifeCourse framework and tools at [lifecoursetools.com](http://lifecoursetools.com)

Developed by the UMKC Institute for Human Development, UCEDD. More tools and materials at [lifecoursetools.com](http://lifecoursetools.com).

SEPTEMBER 2016

# Open Discussion

- **We want to hear from you!**
  - We are here and we hear you! Let's connect and share thoughts and ideas.... What's happening in your family?
- Comments and questions should be brief to give others an opportunity
  - Individual-specific situations & questions are best addressed privately - please contact DDD directly after this session

# Upcoming Events:



SOUTH DAKOTA  
COMMUNITY OF PRACTICE  
FOR SUPPORTING FAMILIES

## Charting the LifeCourse February & March 2023



Tues  
Feb  
14th

### Let's Talk...LifeCourse!

Topic: "Hello, It's Me..." with Dr. Karyn Harvey

Tuesday, February 14, 2023

Time: Noon-1:00 pm CT/11 am-Noon



*It's February and Valentines Day is the perfect day to talk about relationships and the importance of relationships and love in all of our lives.* Research has found that, when asked, adults with intellectual disabilities express positive views about relationships and say that they provide them with satisfaction, self-esteem and security (Sullivan et al., 2016). Dr. Karyn Harvey will join the conversation and share the launch of a new social-emotional learning tool, created especially for people with disabilities. The state-of-the-art app, "Hello, It's Me", features several modules including interactive stories, wellness coaching, dating and friendships, live events, and games. The app is designed to bring together people from the I/DD community in a safe place where they can learn, interact, connect, and have fun.

Registration Required: <https://tinyurl.com/bdzzybp3>

Tues.  
Feb.  
21

### Introduction to Charting the LifeCourse - Virtual Training!

Tuesday, February 21, 2023

Time: 1 pm-2:30 pm CT/Noon-1:30 pm MT

A Introduction to the Charting the LifeCourse Framework. Explore the possibilities! See how it can be used for anyone at any age and stage of life. Learn tools for planning and problem-solving. You will see how the Trajectory and the Integrated Supports Star can be used in your work and personal life!

Registration Required: <https://tinyurl.com/4fkptjr6>

March  
2023

### Charting the LifeCourse in Action - In-Person Training- Sioux Falls (Location TBD)

Watch for registration details, times, and locations soon!

*Are you interested in learning more about Charting the LifeCourse and want to put the tools into practice, this interactive training is for you!* LifeCourse Ambassadors will guide and coach participants using the LifeCourse Framework to gather information, plan, and problem-solve real-life situations. Whether you know a little about the LifeCourse Framework or alot, you are encouraged to attend.

SOUTH DAKOTA  
COMMUNITY OF PRACTICE  
FOR SUPPORTING FAMILIES

### FOR INFORMATION

Katie Kelly [katie.kelly@state.sd.us](mailto:katie.kelly@state.sd.us)

Phone Number: 605-773-3438

The LifeCourse events & opportunities are free to South Dakotans through funding



# Contact Us

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General Information:

Division of Developmental Disabilities

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# Find more information at:

## Division of Developmental Disabilities website

- Family & Self-Advocate Resources
- Family & Self-Advocate Conversations
- <https://dhs.sd.gov/developmentaldisabilities/familyresources.aspx>



# Wrap Up

- Next Family & Self-Advocate Conversation  
**Social Opportunities**
  - May 11th, 2023
  - 12:30 p.m. CT/11:30 a.m. MT
- Slides will be shared on DDD's website under Family & Self-Advocate Resources



What's one thing you appreciated about our time today?

Add your comments in the Chat