

**Ohio House of Representatives
Health Committee
March 6, 2025
Testimony of Caroline A. Lahrmann**

Chairman Schmidt and Members of the Health Committee,

I am the mother of Henry and Elizabeth Lahrmann who are 25 years-old and have intellectual and developmental disabilities. I testify today in opposition to language in HB 96 which codifies the practice of supported decision-making (SDM) in Ohio.

SDM is a practice whereby adults with developmental disabilities (DD), known as a “principals,” formally choose a “supporter” to assist them in making and carrying out decisions by entering into a contract called a SDM plan.

The language in HB 96 broadly pertains to “adults with developmental disabilities (DD).” Developmental disabilities encompass a diverse group of conditions which include physical, learning, language, and behavioral disabilities, as well as intellectual disability.¹ As such, “adults with developmental disabilities” includes adults with DD who are mentally competent and adults with DD who are mentally incompetent.

It is important to note if a person with DD would like to have friends or family members assist them with decision-making, they can already do so today without this legislation. Nothing prevents any Ohioan from asking trusted people in their lives to help them make decisions.

Proponents of SDM suggest SDM is needed because it is a “least restrictive alternative” to guardianship. The inference is without SDM too many people with DD in Ohio will be inappropriately subject to guardianship.

For a guardianship to be established in Ohio, the probate court requires an Expert Evaluation to be completed by a physician and filed with the court. Additionally, the probate court sends a court investigator to evaluate the proposed ward. A hearing is scheduled with notice to the proposed ward and family members. As such, a rigorous procedure is followed to ensure any resulting guardianship is appropriate.

SDM has none of these protections. As the language is written, any Ohioan with DD, even incompetent Ohioans with DD, can sign a SDM contract to appoint a supporter who can make and carry out all of their decisions. The language contains no oversight mechanism to protect incompetent persons with DD who may inappropriately enter into a SDM contract. There is no

¹ The term “intellectual disability” replaced the term “mental retardation.”

required evaluation of the principal or vetting of the supporter and there is no ongoing supervision of the SDM relationship. The language in HB 96 does require supporters to report conflicts of interest to principals and makes bad-acting supporters liable to principals. But if a principal is incompetent, he or she likely does not have the capacity to hold a supporter accountable.

In contrast under guardianship, a proposed guardian submits to a background check and must post bond to protect the ward's assets from misuse. Once appointed, the guardianship is subject to ongoing supervision by the probate court.

The SDM provision in HB 96 is based upon the notion that all adults with developmental disabilities who are not subject to guardianship are presumed competent. But a presumption of competency does not make a person competent. And it's not compassionate to expose an incompetent adult with DD to undue influence, abuse, and financial harm.

Finally, Section 5123.682 of HB 96 provides the Department of Developmental Disabilities shall develop a model SDM plan and informational materials. Given the vulnerability of the Ohioans affected by this provision, any model plan should be developed and reviewed by the Ohio General Assembly before it considers to codify this language.

I urge you to protect vulnerable Ohioans with DD who lack the mental capacity to make decisions and remove the SDM provision from HB 96. Remember, all Ohioans with DD already have the right today without this legislation to ask a friend or relative to help them make decisions.

Sincerely,

Caroline Lahrmann