



Serving critical needs, one person at a time

**SB 213 Proponent Testimony
Kristen Henry, Executive Director
Advocacy & Protective Services, Inc.
Ohio Senate Judiciary Committee
Chair Nathan Manning
May 7, 2024**

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, my name is Kristen Henry, and I am the Executive Director of Advocacy & Protective Services, Inc. (APSI). I am here today to provide proponent testimony on SB 213 sponsored by Senator Jerry Cirino. APSI is a not-for-profit organization that provides **guardianship, advocacy, and other decision-making supports according to Ohio law and by the authority of Ohio Probate Courts** for about 3,000 eligible adults who have a developmental disability. **APSI specializes in serving individuals with the highest level of needs in the least restrictive manner possible.**

APSI is very grateful to Sen. Cirino for introducing SB 213, which recognizes supported decision-making as an alternative to guardianship for adults with developmental disabilities. Supported decision-making, or SDM, is a process for supporting people with disabilities to make their own decisions with the assistance of trusted family members, friends, and professionals. SDM emphasizes providing support and assistance in making life decisions, rather than taking away their legal right to do so. Everyone—regardless of ability—relies on other people in their lives to help them understand and make decisions; SB 213 is a way of formalizing SDM while retaining the autonomy of the individual.

In Ohio, the currently recognized options for adults with developmental disabilities who need support or assistance with decision-making are limited to guardianship and powers of attorney (POAs)—the more restrictive methods of support, which legally turn over decision-making authority to another person. But many adults with developmental disabilities are capable of making their own decisions, so these support mechanisms are insufficient to address the diverse and unique needs of individuals in this community.

SDM empowers adults with developmental disabilities to select trusted individuals (“supporters”) and formulate a plan for how these supporters will assist them in understanding, communicating, and implementing their decisions. These plans can be written documents or informal arrangements, allowing for flexibility based on individual needs and preferences.

SDM is not a new concept; state courts across the country have recognized it since at least 2003. Presently, 25 states and Washington D.C. have established SDM in statute, including Texas, Indiana, Illinois, Missouri, and many others. Although Ohioans can use SDM informally now, recognizing it in statute would help raise awareness of it as an option for individuals and families, and promote its understanding and acceptance among professionals. Formalizing SDM aligns seamlessly with current guardianship laws in Ohio, namely Rev. Code 2111.02, which establishes that the least restrictive option that can meet an individual's needs should be used as an alternative to guardianship. Importantly, any person who needs a guardian because they are legally incompetent and unable to utilize POAs or SDM will still have their needs met; SB 213 does not impinge on the authority of guardians or affect Ohio's current guardianship process in any way.

One of the major benefits of SDM is the protection it provides individuals from exploitation. Unlike guardianship and POAs, a supporter does not take control of the principal's accounts or assets. This empowers the individual to make their own decisions while still receiving necessary input and assistance from their supporters. SB 213 further protects individuals from exploitation by establishing a fiduciary duty from the supporter to the principal and prohibits supporters from participating in decisions that would involve a conflict of interest. Banks, medical offices, and other entities will still have the ability to request documentation from the principal in order to provide information or records to a supporter. Moreover, SB 213 mirrors current Ohio law, offering the same legal protections to individuals acting in good faith under SDM plans as those provided for individuals relying on a POA.

Recognizing supported decision-making also helps Ohio use its limited guardianship resources effectively. Last year, over 20 APSI clients celebrated the termination of their guardianship as their decision-making skills improved to a point where they could be independent of guardianship. Some of them use an informal form of supported decision-making now, but could thrive even more if SDM were recognized in Ohio law with the passage of SB 213.

SB 213 is a crucial tool to support adults with developmental disabilities and their families across Ohio. By embracing this legislation, we can ensure that individuals who might otherwise be referred for guardianship have the opportunity, if appropriate, to be served with supported decision-making, which is more cost-effective and less restrictive. SB 213 empowers adults with developmental disabilities, fostering autonomy for individuals who deserve every opportunity for a self-determined life. Therefore, we are asking you to support SB 213.

Chair Manning and members of the committee, thank you for allowing me to testify as a proponent on SB 213. I will be happy to answer any questions at this time.